United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, JUNE 22, 1995 No. 103

House of Representatives

The House met at 10 a.m.

PRAYER

The Reverend David Sievert, pastor, St. Matthew's Lutheran Church, Janesville, WI, offered the following prayer:

Heavenly Father, God of Nations, God of Peace:

We thank You for the men and women You have given our Nation in the past, leaders who ''pledged their lives, their fortunes and their sacred honor'' that we may enjoy ''life, liberty and the pursuit of happiness.''

Since the care of many must ever rest on the shoulders of the few, strengthen the leaders of our land and especially of this House of Representatives. Help them work for the common good. Make them conscious of their privilege and trust. Give them wisdom, courage, and resolution. Point out to them Your way.

Let the deliberations of those serving here this day speed the cause of justice and peace in our land and throughout the world; through Jesus Christ our Lord. Amen.

THE JOURNAL

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

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

Mr. COMBEST. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 189, answered ''present'' 1, not voting 24, as follows:

[Roll No. 408]

YEAS—220

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeLay
Dickey
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff

NAYS—189

Abercrombie
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hobson
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Mascara

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Printed on recycled paper containing 100% post consumer waste

McCarthy	Payne (VA)	Stark
McDermott	Pelosi	Stenholm
McHale	Peterson (FL)	Stokes
McKinney	Peterson (MN)	Studds
McNulty	Pickett	Stupak
Meehan	Pombo	Tanner
Meek	Pomeroy	Tauzin
Menendez	Porter	Thompson
Mfume	Poshard	Thornton
Miller (CA)	Rahall	Thurman
Mineta	Rangel	Towns
Minge	Reed	Upton
Mink	Reynolds	Velazquez
Mollohan	Richardson	Vento
Montgomery	Rivers	Visclosky
Moran	Roemer	Volkmer
Murtha	Rose	Ward
Nadler	Roybal-Allard	Waters
Neal	Rush	Watt (NC)
Oberstar	Sabo	Waxman
Obey	Sawyer	Williams
Olver	Schroeder	Wise
Orton	Scott	Woolsey
Owens	Sisisky	Wyden
Pallone	Skaggs	Wynn
Pastor	Slaughter	Yates
Payne (NJ)	Spratt	Zimmer

ANSWERED ''PRESENT''—1

Harman

NOT VOTING—24

Ackerman	Hunter	Serrano
Chapman	Laughlin	Taylor (MS)
Chenoweth	Levin	Tejeda
Cubin	Matsui	Torres
Diaz-Balart	Moakley	Torricelli
Doolittle	Ortiz	Tucker
Fazio	Sanders	Wilson
Gordon	Schumer	Young (AK)

□ 1037

Mrs. COLLINS of Illinois, Messrs. GILCHREST, BALDACCI, JEFFERSON, and GONZALEZ, Ms. MCCARTHY, and Messrs. FIELDS of Louisiana, BEVILL, HAMILTON, CLEMENT, COYNE, DE LA GARZA, UPTON, COSTELLO, BISHOP, PAYNE of New Jersey, and MINGE changed their vote from ''yea'' to ''nay.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. GILLMOR). The gentlewoman from Florida [Mrs. MEEK] will lead the House in the Pledge of Allegiance.

Mrs. MEEK of Florida 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.

WELCOME TO PASTOR DAVID SIEVERT

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

Mr. NEUMANN. Mr. Speaker, it is my privilege to thank Pastor David Sievert for opening Congress this morning with a prayer.

Pastor Sievert is from my home church—St. Matthew Evangelical Lutheran Church—in Janesville, WI.

I met Pastor Sievert about 15 years ago and quickly came to understand that his message was one of faith in God, commitment to family, and love of country.

As my family got better acquainted with the Sievert family, it became very clear that his message from the pulpit was carried out in his own daily life.

Pastor Sievert's continuous message of faith, love, and commitment has inspired me and helped me through the daily trials and tribulations while running for office and now as a Member of Congress.

I look forward to listening to his motivating words for many years to come.

Pastor Sievert, I would like to thank you for making the journey out to Washington and for your encouraging prayer to open today's session of Congress.

□ 1040

FAIRNESS IN HOUSE VOTING PROCEDURES

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

Mr. ARMEY. Mr. Speaker, prior to making a unanimous-consent request, I have two comments to make about yesterday's vote on the amendment offered by the gentleman from California [Mr. FAZIO] as amended during consideration of the legislative branch appropriations bill.

First, after viewing and reviewing the videotape of yesterday's proceedings, it is quite clear that the Chair, the gentleman from Georgia [Mr. LINDER], was on solid parliamentary ground when he called the vote on the Fazio amendment. The clerk informs us that he called the vote after 17 minutes and 10 seconds. The videotape shows Mr. LINDER started to call the vote and refrained from completing the call to allow a Member on the minority side of the aisle to vote at the desk, the gentleman from New York [Mr. ACKERMAN]. The video then shows the gentleman from Georgia [Mr. LINDER] called the vote with the well of the House empty of Members. The video then shows that after some time two Members from the minority party appeared at the desk and attempted to vote. The regular procedure of the House is that after the Chair has called the vote, it is too late for Members to cast a vote. The fact that Mr. LINDER paused to allow the gentleman from New York [Mr. ACKERMAN] to vote demonstrates that his intent was not to arbitrarily shut off Members from their right to vote, nor did the Chair cut off anyone in the well from their right to vote because there were no Members in the well at the time he announced the vote.

I would further point out to the House that the vote on the amendment offered by the gentleman from California [Mr. FAZIO] followed two earlier series of parliamentary inquiries to the chair which were propounded to Members on the minority side. These Members asked the chair to be consistent in his respecting the 17-minute voting period. The Chair allowed that he had been, perhaps, too generous in allowing votes to stay open to accommodate Members and that he would attempt to be more rigorous in abiding by the 17-minute vote policy, and with the vote on the Fazio amendment he did just that.

I would further point out that the two Members from the minority who entered the well to vote aye after the vote had already been announced were followed in seconds by another Member from the majority who also arrived too late to vote nay. Had all three of those Members voted, the amendment would still have been defeated on a tie vote, and I might point out, as is the custom, the Speaker did not cast a vote. In other words, Mr. Speaker, the outcome would not have changed even with an extra minute of voting time.

The disposition of the vote on the Fazio amendment was entirely appropriate and conducted within the proper parliamentary procedure of this Chamber.

Having said that, it is also true that many Members, most especially Members on this side of the aisle who supported the Houghton language earlier, felt that their victory had been snatched from them. They have made that clear to the leadership on this side of the aisle. Perhaps they did not have the chance to view the videotape, as I have had. I have that videotape in my office and will make it available to any Member who wishes to see it.

However, I know all too well that once the perception of unfairness and arbitrariness has set in, it is difficult to undo regardless of the facts of the matter. It is important to this Member that fairness govern this Chamber because this Member spent over a decade attempting to do the people's business under very unfair conditions. It is important to this Member that the victories we win are honest and that the defeats we endure are equally so.

For that reason I am about to make a unanimous-consent request to revisit the vote on the Fazio amendment, and, Mr. Speaker, before I make that request, if I may just speak very personally for a moment to my colleagues.

I have not been a Member of this body long, but I can think of few things in life beyond my wife and my children for which I have a greater deal of love than I have for this institution, and this body, and us as Members. I hope that we can set straight a perception of wrongdoing, errant behavior, unfairness, with this action today, and I hope we can all take time to pause and reflect, and remember this body in my estimation is the single most precious and unique institution of democracy in the world, perhaps in the history of the world, and we should all, in each and every act of conduct, no matter how small, always put the honor and the dignity of this body ahead of the politics or even, for that matter, the political subtlety of the moment.

Mr. Speaker, I hope that we can see this as an opportunity for all of us to regain a new understanding of how precious is this body, and how precious is

our privilege to be here, and how precious is our duty to always do honor to this body.

VACATION OF ROLLCALL 405 AND MAKING IN ORDER DE NOVO VOTE ON AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA, AS AMENDED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the proceedings of the Committee of the Whole on rollcall No. 405 be vacated and that when the Committee of the Whole resumes consideration of H.R. 1854 pursuant to House Resolution 169, the chairman of the Committee of the Whole be directed to put the question de novo on the amendment offered by the gentleman from California [Mr. FAZIO] as amended by the amendment offered by the gentleman from New York [Mr. HOUGHTON].

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GEPHARDT. Reserving the right to object, Mr. Speaker, and I am reserving the right to object, but I will not object. I want to respond briefly to what the majority leader said.

Mr. Speaker, I think what the majority leader is attempting to do is right. Our version of the facts is different than his, and I would like to give that version just for the purpose of all of us understanding what was involved here and so that we can try to not have these kinds of things happen again.

As all of my colleagues know, the Speaker made a ruling early in the year that we would try to hold votes to 17 minutes. The ruling stated unless someone was in the well. Our version of the facts was that these two Members, who will speak for 5 minutes and will give their version of it in a moment, were in the Chamber, were trying very much to get into the well, but were not able to physically get there, but were, clearly understood by everybody in the Chamber, trying to vote, and in fact at some point, and there is a dispute about when they handed the card in or even handing cards in to vote, when the vote was called to an end, they were not allowed to vote. There is added suspicion because the vote was close and the majority was winning by one vote, and we had two Members coming into the Chamber, so there is added suspicion from that end of it.

Mr. Speaker, there is very strong feeling on this side. I have been here now 19 years, and I have not in my experience seen the depth of feeling that occurred on this particular issue because, as the gentleman said, the thing that we all hold most dear is our ability to represent over 500,000 people in this Chamber on every issue that is voted on. These Members were doing their best to be here on time and to vote. I think there is added feeling on this side because we seem to be into a differing standard from vote to vote. As was said on the vote just before this vote, there was a long time that the clock was held open. On the vote after, on the motion to adjourn, it again was held open for a much longer time than 17 minutes.

Mr. Speaker, what I think we must do, and I hope we will be able to do, is to have a small group meet and try to figure out some standard that everyone can know so we do not wind up with either the reality or the perception of unfairness in how votes are conducted.

There was another issue yesterday that has also been resolved that I need to bring to the attention of the Members, and that was a situation in the Committee on Science where a vote was held in the committee after the first bell had rung and maybe after the second bell had rung, and a lot of our Members left the committee thinking there would be no other votes in the committee. They came here to vote and missed a vote in the committee. The chairman of the committee rectified that this morning by having a revote in the committee so that people who had not voted in the committee could get the chance to vote, and on this issue, too, I think we need to have an understanding as to when votes will not be held in the committee after the bells have begun to ring at some point.

The final thing I would say is that the most important thing we bring here is our ability to cast a vote. All of us love this House. All of us come here with a serious purpose of representing over 500,000 people. We must never call into question, in perception or in reality, that we all are treated fairly in our ability to vote in committee and our ability to vote on this floor. This is the people's House, and, if there is ever a perception that we are not running this House in a fair manner, perception and reality, then we are in great difficulty.

The minority will work in every way possible to make sure those standards are established and that they are lived with, and I believe that the right thing was done here today, and I hope and believe the right thing will continue to be done.

I would like, as part of the request, to have the Members on our side have 5 minutes to explain their version of what went on.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am about to make, as soon as this request is over, another request.

Mr. GEPHARDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Therefore, proceedings on rollcall No. 405 will be vacated, and, when the Committee of the Whole resumes consideration of H.R. 1854 pursuant to House Resolution 169, the Chairman of the Committee of the Whole will be directed to put the question de novo on the amendment offered by the gentleman from California [Mr. FAZIO] as amended by the amendment offered by the gentleman from New York [Mr. HOUGHTON].

PERMISSION FOR SUNDRY MEMBERS TO ADDRESS THE HOUSE FOR 5 MINUTES EACH

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FOGLIETTA], the gentleman from Alabama [Mr. HILLIARD], and the gentleman from Maryland [Mr. EHRLICH] be allowed to address the House for 5 minutes each.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair, before recognizing the gentleman from Pennsylvania [Mr. FOGLIETTA], wishes to make several observations:

First of all, the Chair announced at the request of the gentleman from Virginia [Mr. WOLF] and the committee on trying to help with families at the beginning of the year that there would be 17-minute votes. The Chair wishes to restate that 17 minutes is a reasonable limit, that if Members are in the Chamber, that they should be recognized, but the Chair also wishes to observe that on final passage on various bills Members who were getting off the elevator on the majority side did not get to vote on the final passage of bills earlier this year. The Chair simply wishes to reassert and to remind all Members we are trying to save time, we are trying to find a way to get this House home so Members can be with their families, and, as a general principle, that is a reasonable thing to do.

Second, the Chair has asked the majority and minority leaders to work both together and with those Members they wish to appoint to resolve the question of committee voting when the House is voting, and obviously, having abolished proxy voting, things are a little more difficult than they used to be, particularly adding 17-minute votes.

Third, the Chair simply wishes to reassert what both the majority and minority leaders have said. Every Member should have the right to participate fairly. Every Member should have the right to vote. This body, as a group, should recognize that there have to be some rules.

The Chair thinks the 17-minute rule reasonably applied is the right kind of thing to do, but we will do everything we can, I hope today, in what the Chair believes is an action he does not remember was taken during the preceding years when I served in this body. The Chair hopes that today's effort will be a sign of good faith that we truly intend for every Member to have their rights protected.

The Chair recognizes the gentleman from Pennsylvania [Mr. FOGLIETTA] for 5 minutes.

Mr. FOGLIETTA. Mr. Speaker, I thank the majority leader for, first, giving me this opportunity to speak and, also as importantly, giving this House a right to revote the controversial issue of yesterday afternoon.

Mr. Speaker, I come from the city of Philadelphia. I represent the First Congressional District, and in the heart of that district stands Independence Hall where the Constitution of the United States was written and adopted. The majority and minority leaders both spoke of matters dear to them. Let me say that the Constitution of the United States of America is also very dear to me.

The majority leader stated the facts as he knows them. However I was the subject, and I was here. The fact is, Mr. Speaker, that I entered the Chamber. The gentleman from Wisconsin [Mr. OBEY] was standing toward the rear of the aisle, and, as I passed Mr. OBEY on my way to the well, Mr. OBEY yelled out to the Chairman, ''One more vote, one more vote,'' which, according to custom over the years, has always allowed that Member to cast his or her vote. Mr. Speaker, I was denied that right.

We are talking about the amount of time that was involved. The Washington Post timed the vote and found that the vote was called 15 seconds prior to the expiration of 17 minutes. I ran to the well, wrote out my card, handed it to the Clerk. The Clerk actually had the card in his hand, and I was then denied to have my vote counted.

Mr. Speaker, that Constitution of which I spoke gives us as Americans some basic inalienable rights. One of the most important, one of the most basic of those rights, is the right of every American citizen to cast his or her vote, and, as importantly, it was the right, or is the right, of every American to have his or her Congressperson vote on their behalf in this House.

Mr. Speaker, I regret that yesterday afternoon over 1 million Americans were denied their right to have their Representative cast votes on their behalf. One million Americans were disenfranchised by, I consider, a disgraceful display of arrogant, unconstitutional abuse of power.

Mr. Speaker, we might try to determine why this occurred. As you well know, the vote would have turned had I and the gentleman from Alabama [Mr. HILLIARD] been allowed to vote. That is one of the reasons. The second reason I was not aware of until I left this Chamber is, as I left the Chamber, I walked out in front of the Capitol and there saw my colleagues from the majority side boarding buses to take them to the airport to take them to New York City for a fundraiser. Strangely enough, the New York Post, owned by one Rupert Murdoch, states in its column that the GOP went to great lengths to make sure that its Members got to the Big Apple on time. Was one of those great lengths to which the GOP went the denial of Members of the right to vote and the denial of American citizens, of over 1 million American citizens, to have their Representative cast votes on their behalf?

I appreciate the fact that we are going to have a revote, and I would hope that this incident brings home the message to every Member of this House that what we do here is an important part of the American way of life. What we do in this body is a right guaranteed by the Constitution of the United States, and that constitutional right should remain inviolate no matter what the circumstances.

□ 1100

I would hope that after this incident, every Member will have the right to cast his or her votes on behalf of his or her constituents, the American citizens.

VOICE OF FREEDOM STILLED ON FLOOR OF HOUSE

(Under previous order of the House, Mr. HILLIARD was given permission to address the House for 5 minutes and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, yesterday on the floor of this House the voice of freedom was stilled by the forces of repression. The strong arms of the Republican army flexed their mighty parliamentary weight and refused two duly elected Members of this body, myself and the gentleman from Pennsylvania [Mr. FOGLIETTA], the opportunity to vote before this Congress. In doing so, the Republicans crushed the very voice of democracy.

This is not Caesar's Rome, this is not Hitler's Germany, and this is definitely not Stalin's Russia. This is where the voices of freedom should reign. This is the birthplace of democracy.

This is America. We all must protect its democratic institutions, and especially its foundation, the right to vote. Our right to vote supersedes any party vote on any issue. We must preserve the integrity of the vote, and we must in this body aggressively champion the right to vote.

A revote is good. It does not show good faith. To me, being a politician for 22 years, it tells me that you are out to achieve your objective at any cost. Yesterday you could not win because there were two votes in this Chamber that would have made the difference, and there was no third vote, even though I realize that you have created one now. Because you did not have the votes yesterday, and because you have twisted arms last night and you have the votes today, you are ready to revote. To me, that is not good faith.

You, because you are the majority party, have a greater duty to preserve and protect this institution, and I suggest to you that you have failed to do that. The procedures of this institution must be protected at all costs. It should be beyond and above any objective of any party.

This morning, the Washington Post stated that you cut off the vote by 15 seconds. I heard you state that 10 seconds had elapsed. By our count, we had more than 30 seconds. By the Washington Post, which I would think would be independent of the Republican count or the Democratic count, you cut off and denied over 1 million people the right to vote by 15 seconds.

This is not democracy. In Alabama we do not even do this. Never do we openly take the rights of anyone to vote, and I would hate to think that this body is below that level. It cannot be, it should not be.

I suggest to you, because you have the votes and because you have been using the clock to manipulate that vote, you hold it open when you do not have the votes, you close it when you do, you win, the Republican Party wins. But I also suggest to you that every time you do it, democracy loses.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The Chair will accept fifteen 1-minute requests from each side.

DENYING THE RIGHT TO VOTE

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

Mr. BONIOR. Mr. Speaker, we have always known that the Republicans were willing to go to great lengths to pass their extremist agenda. I never thought that I would see the day when they would actually deny Members of this body the right to vote, but on the floor yesterday, a Democratic amendment was one vote, one vote, shy from victory. There were 15 seconds left. Two Democrats who had not voted were trying to vote, and they were cut off, denying 1 million people in this country representation.

Mr. Speaker, this is the most egregious and arrogant abuse of power that I have seen on our House floor. To top it all off, when Democrats tried to question the ruling, the Republicans adjourned early and jumped on buses. You know why? Where did they go? This poster points out where they went. They went to New York, by plane, got on a bus, took a plane, and raised $1.7 million at a fund raiser.

Now, the Republicans are willing to shut down our voices, shut down our votes, and adjourn the House early, all so they can raise $1.7 million from the special interests and the wealthy corporations. Welcome to the Gingrich revolution.

TRAMPLING DEMOCRACY

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

Mr. DOGGETT. Mr. Speaker, yesterday our Republican colleagues were in a rush to get to a big bucks fundraiser up in Manhattan, and democracy was trampled in their stampede to get to those big dollars. You can look at today's New York Post. You can see what it was all about. An all-star list of corporate bigwigs was slated to attend, the same corporate bigwigs that are being benefited by the tax shift to the superrich at the expense of people who want school lunches and the protection of Medicare. It is more of the same thing.

But it is a dark day indeed for democracy in this country when the rights not just of two Members, but over 1 million Americans to have their voice heard in this House, are trampled and cut off. And, amazingly, only moments before this occurred, in the Committee on Science on which I serve, in an incredible display of arrogance, there was an attempt to force people to vote there or vote here.

This is a true setback for democracy.

ADJOURNING EARLY

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

Ms. KAPTUR. Mr. Speaker, in my 13 years as a Member of Congress, I have never experienced what happened yesterday in this House. Instead of doing the people's business, this House adjourned yesterday at 3:50 in the afternoon, in the middle of a workday afternoon when most Americans are still on the job. Why? Money, and millions of dollars of it. That is right. Congress adjourned early yesterday so that Republican Members with Speaker GINGRICH at the helm could fly to New York to attend a GOP fundraiser aboard the Intrepid Sea and Air Space Museum, where wealthy givers paid $1.7 million to hobnob with Republican Members who did not work a full day yesterday, but were not docked for their pay.

During the first 2 months of this year, the Republican Campaign Committee has raised over $11 million. That is over $123,000 a day. Maybe it is time to ask ourselves who is fighting for America here in Washington, and should not those Members who left early be docked on their pay?

GOP ABUSE OF POWER

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

Ms. DELAURO. Mr. Speaker, it seems only yesterday when the Republicans rode into town promising reform, but those days are long gone. Instead of reform, the new Republican majority has curried favor with the special interests, gagged debate, and yesterday denied Members of this body the right to vote.

Why did Republicans close a vote while two Democratic Members were waiting to cast their ballots? Because they had a fundraiser to go to. Yes, the buses were idling outside waiting to squire them to the ''Salute to Newt'' fundraiser, featuring GOP poster boy Rupert Murdoch. The article in the Post today says ''the GOP went to great lengths.'' Indeed, they went to great lengths to make sure that their Members got to the Big Apple on time.

Last November, the American people were promised that Government would be returned to them. But yesterday hundreds of thousands of American people were shut out of the people's House when their Representatives were denied the right to vote on their behalf. What we are seeing in this body is an arrogance of power, one of the most egregious abuses of power in our Nation's history.

THE FACTS BE DAMNED

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

Mr. SCARBOROUGH. My goodness, such self-righteous indignation over those big-money interests. It is a concept that the other side of the aisle has known nothing about for 40 years. But who for the past 40 years has been the champion of PAC money and collecting special interest money? It has not been this side of the aisle. It has been the Democrats. And yet now that the Republicans dare to have a fundraiser, a concept that the Democratic Party has never thought of one time in their life, we are destroying the work of the people's House. We are subverting democracy.

Dear Lord, there were two Democrats that were going to vote yesterday, but they were shut out. Be damned with the facts. Get behind us, facts. There was a Republican in the Chamber also, and the majority leader explained this yesterday. The Democrats would have lost.

But instead of sticking to the facts, they are relying on demagoguery, talking about Rupert Murdoch and other things that have absolutely nothing to do with the facts of what happened yesterday.

How absolutely irrelevant to what has been going on yesterday and what has been going on since we got here on January 4, 1995.

MEMBERS' RIGHTS MUST BE PRESERVED

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

Mr. OBEY. Mr. Speaker, in response to the previous statement by the gentleman who just spoke, let me say the issue is not whether the Republican Party held a fundraiser or not. That happens all the time on both sides of the aisle.

The issue, however, is whether it is in the democratic tradition, big American democratic tradition, not party, for the majority party to shut down this House and cut off an individual Member's right to vote so that they can get to a fundraiser in New York on time. The article in Mr. Murdoch's paper says the GOP ''went to great lengths to make sure its Members got to the Big Apple on time.''

This is the issue. Not whether you had a fundraiser, but whether you were so anxious to go grab the money, that you were willing to shortcircuit the democratic process in the doing. That is the issue.

CRYING LACK OF FAIR PLAY

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

Mr. MCINNIS. Mr. Speaker, first of all, in response to all this money-raising garbage, frankly, that I have been hearing this morning, how interesting it is that the President of your party tonight kicks off his fundraising. Do you want to dock his pay? One of your people just proposed you dock the pay for the time they spent. Take a look at that.

Second of all, to my colleague that was just preceding me, who talked about the cutoff of voting rights, why do you not bring the videotape up here and set up the TV camera? To my colleague, the videotape does not lie. They were in violation of the rule. They were not down here in the well. They had gone beyond the 17 minutes.

Do not cry lack of fair play. Bring up the video and show the American people the truth. Are you afraid to do that? Of course you are.

□ 1115

A BAD DAY FOR THE CONSTITUTION

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

Ms. ESHOO. Mr. Speaker, this morning I think that we should recall the words of a great woman of many, many years ago, Barbara Jordan, during the Watergate hearings, when she intoned the Constitution.

Yesterday was a bad day for the Constitution. Yesterday was a bad day for this card that we each have that the people of our respective congressional districts graced us with, the power to speak for them, the power to represent them with our vote. The Constitution. The Constitution.

Yesterday was a good day for fundraising. Yesterday was a bad day for democracy and for the Constitution and the power that the people gave us in the House of Representatives to cast our vote and to speak for them. Shame on those that would chip away at the Constitution.

CLINTON BUDGET NOT BALANCED

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

Mr. JONES. Mr. Speaker, the Congressional Budget Office has weighed in on President Clinton's plan to balance the budget in 10 years. Their conclusions were not too, shall we say, promising.

CBO concludes that Clinton's new budget would not even come close to balancing in the year 2005. They predict the deficit that year will be $209 billion, about what it is today.

During his first State of the Union Address, Bill Clinton sang the praises of the CBO. Now, the differences between his numbers and CBO's numbers are passed off as merely a difference of opinion between policy wonks.

Mr. Speaker, Bill Clinton's budget is a sham. If he were serious about balancing the budget, he would get serious about the Federal Government's spending problem.

Instead of a real balanced budget, all Bill Clinton proposes is a plan to protect big government.

INNOCENT UNTIL PROVEN GUILTY

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

Mr. TRAFICANT. Mr. Speaker, before the House institutes instant replay, I would like to talk about the Constitution in another way. Under the Constitution, an American citizen once accused shall be considered innocent and the accuser shall be held accountable for the credibility and reliability of those accusations and shall bear the burden of proof.

It is simple. It is logical. It is fair. It is American. It is right to the point.

Tell me, Mr. Speaker, when did the Washington bureaucrats reach into the Constitution and in a tax case allow the IRS to treat the American people like indentured servants, like criminals, like noncitizens, like chattel. Unbelievable.

H.R. 390 says, any time an American taxpayer is in a court over a tax proceeding, they shall be considered innocent, and the IRS shall have the burden of proof. That is simple. That is logical. That is fair. By God, that is American.

If we want to talk about the people's business, let us pass H.R. 390.

RULE ON VOTE TIME

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

Mr. HEFLEY. Let us wait just a minute, folks, with all the screaming and wrapping of the righteous robes of indignation around your bodies about what happened here yesterday. The rule was established at the outset of this session. We are not going to do it like we did in the old days. We are not going to slop over for 30 minutes on the votes. We are going to have 15-minute votes. Those 15-minute votes, because sometimes there are unexplainable circumstances, those 15-minute votes sometimes will wait until 17 minutes. The vote yesterday was 17 minutes. But I guess some Members are slow learners and they habitually wander in here after the 17 minutes and say, one more, one more, let us vote.

We were here. Where were those two Members when everybody else had voted within the 17 minutes? Where were those two Members who feel like they were so wronged yesterday? They had the same time we did. I guess they had things that were more important to do than to be on this floor and vote within that 17-minute limit.

We are here to try to change Congress and change this country. You are just trying to change the subject.

ARROGANT ABUSE OF POWER

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I have been in this body for 22 long years and never have I seen the arrogant abuse of power that I saw here yesterday.

Now the funny thing about it, I sat here for an hour and a half this morning. Thirty minutes of that time was spent on the vote that was called to vote on the record, a 30-minute vote. Check the video. Check the clock. Check the timekeeper. You will find that is the case.

Now, 30 long minutes, yet you cannot allow a Member time to get here to vote on the floor of the House of Representatives. I say to my colleagues, money is important. Everybody likes money. I like money. The Democrats like money. Republicans like money. But not at the expense should anybody leave this body to go to a fundraiser, a fundraiser in New York when business is going on to represent the people in this country.

The House of Representatives and the millions of people that we represent deserve better than that, deserve to have their voices heard, deserve to have their votes casts by those of us they send here to cast their ballots for them.

Let me tell you something else, money is the root of all evil, and you did an evil thing yesterday when you left here and did not do the people's business.

SETTING THE RECORD STRAIGHT

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

Mr. TIAHRT. Mr. Speaker, I would like to rise to set the record straight. Yesterday I was in the Committee on Science when the chairman laid out the rules for the vote that was going to precede the vote that came on the floor.

What happened is the opposition to this tried to filibuster in the Committee on Science and then alleged that they missed the votes here. The chairman stayed throughout all debate. He then left the Committee on Science, came here and was able to register his vote. But still the charge is arrogance.

Today I just left the Committee on Science. I just revoted on the very same amendment. It was allowed. We were considerate and yet no apology, just a charge of arrogance. When are we going to have some reality and some consideration on the floor of this House?

I think it is time that we act like gentlewomen and gentlemen as we so profusely proclaim on the floor of this House.

THE REPUBLICANS' ARROGANCE

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

Mr. WARD. Mr. Speaker, let us talk about setting the record straight. Listen to this. Listen to this, you people on the other side of the aisle who simply do not get it. This country is about the right to vote.

I was in this Chamber yesterday. I am a witness. I saw it all. There were two Members standing at the very place I stand this minute, filling out cards, attempting to vote, attempting to represent over a million Americans. A million Americans were denied their right to vote yesterday, and why? There are two simple reasons: The Republicans were losing the vote and they could not stand that in this era of lockstep, almost Nazi-esque obedience.

Second, they were going to a fundraiser. It says right here, the GOP went to great lengths to make sure its Members got to the party on time.

Let us do not forget this, my colleagues. It is about their arrogance, and they never apologized for it. They just said: We will let you vote again. That is not right.

LET US GET ON WITH THE PEOPLE'S BUSINESS

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

Mr. SAXTON. Mr. Speaker, the beltway mentality that exists here never ceases to amaze me. The votes on this issue, had they been cast, would not have changed the result of the vote to begin with. But the real crime here is that the people in my district at least have some real concerns.

For example, I have some senior citizens in my district who are concerned about Medicare. And yet while your party decides that they want to complain and carp about a time limit on a

vote, you all suggest that we are not going to deal with the Medicare problem. The President himself has admitted that Medicare goes bankrupt in 7 years. Yet your party decides to refuse to address the issue.

Which is more important? Squabbling about these votes or getting to the business of the people and addressing issues like Medicare?

Mr. Speaker, I am tired of the partisan bickering. I seldom take part in these partisan debates; I prefer to deal with issues, issues like Medicare. Let us get on with the people's business.

WE SHOULD ALL LIVE BY THE SAME RULES

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

Ms. FURSE. Mr. Speaker, I have a history. I have lived in countries that were not democracies. I want to say something about democracy. In a democracy trust is the major component. in a democracy, it is not the military who makes the rules; we make the rules. We, the people, make the rules, and we trust we will all live by them.

The Republican leadership said there will be 17-minute votes. Yet today we have a 30-minute vote. So who can we trust?

That is why, they say, they denied those two Members coming down from here into the well to vote. I was standing right here, Mr. Speaker. I pointed to those Members. I said, Mr. Speaker, there are Members. It is on the videotape.

Mr. Speaker, if we lost the trust in this institution, we lose what is best about a democracy. We all make the rules. We all live by the same rules.

METHINKS THOU DOTH PROTEST TOO MUCH

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

Mr. EMERSON. Mr. Speaker, I have actually sat here this morning and listened to all of the righteous indignation being expressed. There was a perceived wrong in the House, and the majority leader, in an act of magnanimity that I have never witnessed in my 15 years here, and, believe me, when we were in the minority, there were many perceived and real acts perpetrated that were not only perceived, they were real acts of wrongdoing, procedurally. This House was never offered the means to address the perception of wrong, in those days. But now the offer has been made, and it was unanimously agreed to.

I think with what is going on here this morning, there is—I would have to refer a little bit to Shakespeare here: Methinks thou doth protest too much. For the lack of an agenda of substance, you want to quibble about a procedural issue that is, in fact, being addressed and addressed in a very reasonable, up front and correct manner.

THE AMERICAN PEOPLE WERE DENIED REPRESENTATION

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, a frightening thing happened yesterday. Two votes that would have changed the outcome of House action were denied. In addition to the disenfranchisement of two Members, 1 million American people were also denied representation on that vote. What does this kind of capriciousness do to our democracy? What was so important that the business of the House had to be shut down?

Was it the ''Salute to Newt'' that took place in New York last night? What does this say about the integrity of the vote under Republican rule?

Republicans want to deny potential voters with the repeal of motor-voter. Republicans want to deny real voters by invalidating election results in California and North Carolina. And how we see that they are willing to even deny elected Members the right to vote on the floor of the House if it does not fit in with their outcome.

Mr. Speaker, this bodes ill for the people of America. This is going too far. They are extremists, and they cannot be trusted.

U.S. COAST GUARD COMMENDED FOR LEADING FIGHT AGAINST ILLEGAL DRUGS AND VIOLENT DRUG CARTELS

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

Mr. ZELIFF. Mr. Speaker, the U.S. Coast Guard is leading the charge against a force that is now our No. 1 national security threat—illegal drugs and violent drug cartels.

Last week, as chairman of the National Security, International Affairs and Criminal Justice Subcommittee, I led a congressional delegation to the front lines in the drug war. We went to the 7th Coast Guard District. What we saw was both impressive and disturbing.

Impressive, because we saw brave men and women in the air and on the sea, putting their lives at risk, in the drug transit zone, hunting narcotraffickers. They are out there protecting our kids and our grandchildren. And they need our help.

Disturbing, because our Nation has badly underestimated the threat posed by drugs and the drug cartels. The interdiction effort needs our support. Congress and President Clinton have to lead.

In the past 2 years, drug use has skyrocketed. But the priority on drug interdiction has fallen. We flew in Falcon jets. But 4 of the region's 10 Falcons have been retired. We flew in HH–60 helicopters. But the pilots have lost radars, aerostats, and their only C–130 AWAC. Resources are at rock bottom, when they should be at the top.

We saw 5,000 pounds of drugs interdicted by the brave souls on the Coast Guard Cutter *Mellon*. But the raw truth is: The drug cartels are killing us as surely as any foreign enemy. It has got to stop.

From the frontlines, I say to my colleagues and I say to President Clinton, let us get drugs at the top of the national agenda.

To the Coast Guard I say, thank you. You are doing important and dangerous work, and we appreciate it.

CORPORATE FAT CATS

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

Mrs. SCHROEDER. Mr. Speaker, let us put a little focus on what this article points out. The reason we adjourned the House early on Wednesday afternoon, what every other American thinks is a regular workday, we adjourned early afternoon so people could run to corporate jets owned by tobacco companies and insurance companies, so they could traipse off and go to New York City, where the New York fat cats were waiting to stuff their coffers with money. If they kept those fat cats waiting, they might not have stuffed so much in the pocket.

Mr. Speaker, I am one of the people who, after the first 100 days, went to this dome, and some were angry for holding up a sold sign, but let me tell the Members, every day it appears to me we are selling this place out. I do not want this to become a coin-operated legislative machine.

Yes, have fundraisers, but have them at night, have them on weekends. Do not have them on Wednesday afternoon with corporate jets escorting Members back and forth, so they do not upset the fat cats, so they will give them lots of money. That is why the American people are really concerned about this sacred trust we have called democracy. It is not totally dead yet, but I will tell the Members, it is in danger, as of today.

GAMES IN THE HOUSE

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

Mr. PAXON. Mr. Speaker, there is sanctimony dripping from the ceiling. I want to set the record straight. I see my colleague, the gentleman from California [Mr. FAZIO] standing here. I would remind the gentlewoman from Colorado [Mrs. SCHROEDER], who just stood and talked about scheduling events on weekends and at times the House is not in session, that the gentleman from California [Mr. FAZIO],

chairman of the DCCC, used to come to me and say ''We are going to have an event. We would like to make certain that votes are not called during that time.'' We always obliged. I think there was always comity between the two sides of the aisle.

We held an event, that side holds events. Both sides do it. This vote had nothing to do with the scheduling of our event. It had everything to do, though, with games being played here in the House that had nothing to do with the NRCC's event last night. However, we certainly will remember that advice in the future, when it comes to scheduling events, and certainly keep an eye on that side's, also.

RECOGNITION OF THE SOUTHERN BAPTIST CONVENTION'S RESOLUTION, JUNE 22, 1995

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I am delighted to stand here today to recognize the bold and courageous step the Southern Baptist Convention took during its annual convention. As many of you know, its members passed a resolution acknowledging and asking forgiveness for past acts of racism.

The Southern Baptist Convention was created in 1845 when some members split from the American Baptist Convention over the question of whether slaveowners could be missionaries.

In 1989, its members moved toward this historic resolution when they declared racism a sin.

This resolution commits its members to eradicating racism in all its forms from Southern Baptist life and ministry. I pray, Mr. Speaker, that others would follow the example of the Southern Baptist Convention so that our great Nation can be all that it can be, utilizing the full potential of all its citizens regardless of race.

A LITTLE HYPOCRISY IN COMPLAINTS

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

Mr. LATHAM. Mr. Speaker, I have been listening to this debate up in the office. I just happened to see Roll Call this morning. It concerned me that maybe we have a little bit of hypocrisy going on today.

There is an article here entitled ''Party Weekend.''

> The Democrats are holding a retreat for big donors at the notorious Greenbrier resort in White Sulfur Springs this weekend. The price of admission is $10,000 for individuals, $15,000 for PAC's. There will be some time for discussion, but most of Saturday is free time for golf, tennis, swimming, horseback riding, and visiting the spa. The Greenbrier retreat is one of six events the Democrats are holding for big donors this year.

Mr. Speaker, let us get some reality here. All this rhetoric is quite disingenuous.

AMERICA IS NOT YET A COLORBLIND SOCIETY

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

Mr. FLAKE. Mr. Speaker, let me be the first today to welcome all of our colleagues to the new colorblind society. Mr. Speaker, the Speaker himself has said just as late as last week that we were not there yet, but we are. Let us just put down all the weapons we used to get here to the promised land of equality and cooperation.

Mr. Speaker, what are the signs that we are here in this land of milk and honey? The Supreme Court last week in the Adarand decision told us, and today in the Committee on Banking and Financial Services, we will put yet another nail in the coffin of inequality in fair housing and lending.

News flash, we are not there yet. By taking one of the best weapons we have away from the Attorney General to use testers, qualified minority and nonminority applicants who root out bigotry and discrimination in housing, we have taken a bad detour back to the past.

Shame on those who falsely welcome us to this color-blind America. We are not there yet, Mr. Speaker. Only last week U.S.A. Today reported that there is still discrimination in housing in this land. There is still discrimination in fair lending practices. Mr. Speaker, let us move toward a color-blind society, but we are not there yet.

HOW REPUBLICANS MAKE LAW: LET LOBBYISTS DO IT

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

Mr. SKAGGS. Mr. Speaker, the Republicans promised some sweeping changes in how Congress works. In one way, they have certainly delivered.

The Democratic Study Group is today releasing a special report that describes just how this Republican Congress has turned over the reins of congressional power to special interest lobbyists.

Lobbyists have been brought in from the corridors of the Capitol and given a seat of power, where they are performing the functions that are the legal and moral responsibility of Members and staff. These paid agents of private interests are dictating the wording of legislation, conducting official staff briefings advising committee counsel during bill markups, drafting official committee reports, and even sitting on the dais during hearings.

Mr. Speaker, it is one thing for lobbyists to give advice and suggest bill language. It is quite another for these agents of private interests, interests with a financial stake in the outcome, to perform the core responsibilities of congressional staff and Members.

Mr. Speaker, this is the business of legislating. It is the public's business. It is to be conducted only by those who are accountable to the public.

COMMITTEES AND SUBCOMMITTEES TO SIT FOR THE REMAINDER OF THE WEEK DURING THE 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GILLMOR). The Clerk will report the motion.

The Clerk read as follows:

> Pursuant to clause 2i of rule 11 Mr. ARMEY moves that all committees and subcommittees of the House be permitted to sit for the remainder of the week while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I will not take my whole hour.

Mr. Speaker, let me just say, this is a routine matter. It is a fairly normal thing we have been doing here in order to enable our committees to work while the House proceeds with business. Of course, we do this in all due consideration to all our Members, but also, of course, in due consideration of the fact that the people's work must be done.

Mr. Speaker, I reserve the balance of my time, with the exception that I will yield 15 minutes to the gentleman from Texas [Mr. DOGGETT] for the purpose of debate only.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me, and would like to be heard in opposition to this motion.

Normally, Mr. Speaker, it would be my feeling that this House should proceed in all due speed to attend to matters, certainly on the Committee on Science on which I serve. However, yesterday we had an incredible display of arrogance in that committee. It is not the first time that it has happened, unfortunately.

That is that after the bell had rung for Members of the Committee on Science to come to the floor of this house and cast their vote on behalf of the over half a million people that each of those Members represent, after that bell had rung, the chairman of the committee attempted to force the committee to vote in committee at the same time, several blocks away from where they were being asked to vote on the floor of this House.

The effect of that action is to deny that half a million Americans the opportunity to cast their vote either in the committee or on the floor, since even the Committee on Science, as advanced as its outlook might be, has not

figured out a way to have Members of Congress sit in two places at the same time.

Therefore, Mr. Speaker, with this having happened on a prior occasion, I began talking about this in the Committee on Science in hopes that there would be an opportunity to simply have the common decency and the common courtesy to postpone the vote until immediately after the vote here, because several members of the Committee on Science, Democratic members, had already left, realizing how really critical this vote was on the floor of the House concerning, ironically, the Office of Technology Assessment, a matter that relates directly to the jurisdiction of our committee.

Those members left. They included the distinguished gentlewoman from Michigan, LYNN RIVERS. Ms. RIVERS, as she told the House yesterday, has never missed a vote on the floor of this House. She has never missed a vote in any of the committees on which she served until yesterday. The only reason that she missed that vote was the vote was forced while she was trying to cast her vote on the floor of the House, the vote was forced in the Committee on Science.

Mr. Speaker, I talked for 5 minutes, asking for the opportunity to simply delay the vote until such time as all our Members could return, and that opportunity, that common courtesy, was rejected. It is for that reason that I oppose this motion, because I think that the House needs to make a statement that we will not place any Member of this House, Democratic or Republican, in the position, the dilemma, of deciding shall I vote on the floor for my constituents, shall I vote on the committee to which my expertise is called?

Mr. Speaker, none of this would have been necessary yesterday. None of this rush to justice would have occurred had it not been, as several Members have pointed out this morning, for the fact that some of our Republican colleagues just could not move fast enough to get to that big bucks fundraiser up in New York City, where all of the corporate elite was gathered to shower down benefits on them. There is nothing wrong with having a fundraiser. They do go on all the time on both sides. It is the only way this place seems to be able to operate.

However, what is wrong is when democracy is trampled in the process, and people are cut off and denied their right to vote, be it on the floor or in an important committee of this House like the Committee on Science.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I think we all recognize that immediately following the disposition of this motion by the floor leader, that we are going to be back on the legislative branch appropriation bill. The very first vote is going to be, again, on OTA. At least that is being corrected.

However, then we are going to follow with other votes about 10, 11 minutes apart. We are going to have other amendments and they each have about 10 minutes to them. Those are very important amendments. Those on the Committee on Science are going to have to stay over there and not listen to the debate.

Mr. DOGGETT. They are over there right now meeting. That is the problem. They cannot be in two places at once.

Mr. VOLKMER. If the gentleman will yield further, they do not know what is going on, Mr. Chairman. They have to run over here and try to make this vote. If the chairman does like he did yesterday and calls for votes, we are back in the same pickle all over again.

Would it not be better for the Committee on Science just to say no, we will not finish up today, we will come back in next week and we will finish up, at a time when it is not going to interfere with Members trying to do two things at one time?

Mr. DOGGETT. Perhaps at a time when simple common courtesy and decency and collegiality could prevail, instead of pomposity and arrogance, which is what we have had too much of.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding.

Mr. DOGGETT. Mr. Speaker, I might point out what happened yesterday as it relates to what occurred here on the floor. I know the gentleman is interested in the total inconsistency, because when we did rush over here, literally in a gallop from way over at the Rayburn building, to try to be two places at once, we found, or I did, in response to a parliamentary inquiry, that a phone call had been made, and that the vote had been extended far beyond 17 minutes, but that was the vote immediately before the one that was cut off a few seconds shy, and 1 million Americans' right to vote shy, of being able to be cast here.

Mr. VOLKMER. If the gentleman will continue to yield, Mr. Speaker, if the gentleman and other Members of the minority had been informed by the chairman of the Committee on Science that that phone call was being made, and that there would be sufficient time for the gentleman to respond to the rollcall vote over here, he would not have had to run over here right away

□ 1145

You were not told that, were you?

Mr. DOGGETT. We heard nothing of it. It would have allowed those Members like the gentlewoman from Michigan [Ms. RIVERS] to keep her 100-percent voting record for the people of Michigan.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I really thank the gentleman from Texas for his leadership on this. I know in Judiciary, we were confronted with exactly the same thing the day before. That after the second bell I left to come here to vote because I thought the 15-minute thing was legit and I guess my mother emphasized promptness too much. I left, I came over here, went back and found out that they had a rollcall and so I had not been able to participate in the rollcall in Judiciary.

Look, during the first 100 days, I think our side cooperated when we had this 15-ring circus going on. But at this point when you have got committees that are doing markups and hearings and meanwhile having issues on the floor that the committee is also interested in at the same time, I would think what we are really saying is we are just running around here voting and people do not have any time to really focus on these tough issues. I think the people expect a little more of us. They expect us to work later than 3:30 in the afternoon and in the middle of the week, knock off to go to New York City and whatever.

I think the gentleman is making an excellent point and I would hope that everybody could get some idea of what the rules are. Are we going to have committee votes after the second bell? Are we going to have them after the third bell? Are we going to be able to hold the thing open down here if that is happening? Who has the clout to do it? Is it only people on that side of the aisle? People on this side do not have that clout? These are serious issues.

Mr. DOGGETT. They are serious issues, because democracy has to work both ways. It has to be the same rule for Democrats and Republicans and people of no party affiliation. I certainly do not object to their need to rush off to a fundraiser in Manhattan with the tobacco lobbyists and the other big corporate interests, buy why is it that the people's workday had to be cut short in the middle of the afternoon? The folks I represent down in Texas do not usually get off at 3 or 4 in the afternoon to head off to some big bucks party. They have to stay and put in at least their full 8 hours of labor. Had these folks been willing to put in their full 8 hours of labor and then catch their corporate jet to New York and enjoy the chance to be wined and dined with the big corporate lobbyists, then we would not have had this problem. We could well have permitted people to vote in due order in the Committee on Science and to vote here on the floor of the House without rancor, without any kind of interruption or disruption such as we have had, and we would be much further along on the people's business today had these nasty incidents, one here on the floor of the House, one in the Committee on Science, totally uncalled for, totally unnecessary, had those no occurred.

Mrs. SCHROEDER. If the gentleman will yield further, I think the gentleman is making an excellent point. That what we are talking about is by trying to compact the day into just a

few hours so it is convenient for jetsetters, or fat cats, so they don't have to be kept waiting and whatever is wrong. You do your business first and then you do the other thing. We understand that.

If people say, ''Well, we don't want to work late that night,'' that may be one thing. But 3:30 in the afternoon is not really late. I think that most people would be very surprised by that. But I think basically what Members want to know is what are the rules around here? How many times can we have votes? How late are they going to be? Are we going to have to start choosing between where our vote is recorded? And it is not our vote. It is the vote of the people we represent. I think that is the thing we have to keep focusing on. People expect their voice to be heard here and Members are now being forced to choose between where they are going to cast their vote since we do not really quite know what the new rules are. I thank the gentleman for pointing this out.

I hope people vote ''no.'' I think we have got to get a little more in order here.

Mr. DOGGETT. I think there is no doubt about the outcome of this vote on my objection than any of the other votes that we have had this time. But I would commend to the majority leader the leadership of a member of the majority of the subcommittee on which I serve on the Committee on Science, the distinguished gentleman from New Mexico [Mr. SCHIFF], because we went through a subcommittee hearing on some of the same legislation being considered in the Committee on Science. It was without disruption, it was without ill feeling, even though we disagree on some of the substance as much as with any member of the full committee. That is the way that the committees and the subcommittees of this Congress need to be operated.

The people did not ask for us to come here and get engaged in some kind of partisan tussle. They simply wanted a full exchange of ideas where every Member is accorded the dignity of a vote, to represent their constituents.

I would ask the distinguished majority leader, whatever the outcome, perhaps the predetermined outcome of this vote, to simply work with us to see that this does not happen again, to see that Members are not forced to a choice between representing their constituents within a committee and representing them on the floor of the House. That is what all this is about, so that there can be informed representation, fair representation. We ask for no special privilege on the Democratic side, only the opportunity to represent our constituents and hopefully work toward a bipartisan answer to some of the problems that this country faces.

I know that there will be times when the crush of campaign duties may draw people away. But let that not be at the expense of the normal workday. There is no reason why this body cannot work until at least 5. There will be plenty of time to fly off in the corporate jets and deal with the contributors that I know are so vital to the Republican Party. They can do that and still conduct the people's business in a fair and proper way.

I think that yesterday democracy was trampled twice, once on the floor of this House, once in the Committee on Science. Let us see in today's action that in addition to revotes, that we actually have a commitment to reform.

When I came here in Congress for the first day in January of this year, I have to admit that I was not all that happy about finding myself in the minority. But I will also admit that I was quite happy to see Republican colleagues saying they were going to shake this place up. I think business as usual needed to be shaken up in this place. If I have any disagreement with them now, it is not that they shake too much but that they did not shake enough. When things like this happen, it suggests we are right back to business as usual.

It is not enough to say, ''Well, that's the way somebody else did it 10 or 20 years ago.'' These are supposed to be revolutionaries, committed to revolutionary change in this House. It is nothing but revolting to see what happened yesterday. We do need revolutionary change in this House, and I think that assuring that every Member gets to cast their vote fully and fairly in committee and on the floor of the Congress is absolutely vital to that reform.

If we can combine with that opportunity some affirmative and immediate action, if we could have as much of a rush to true campaign finance reform, as much of a rush to a gift ban and free trips and this kind of thing, to changing our rules to deal with that as there was a rush to justice yesterday to get to that fund-raiser up in Manhattan, we would begin to reform this system so that people had not only their full 100-percent right to vote on the floor of this House and in the Committee on Science but so that our citizens were dealt with fully and fairly, so that the ties that seem to bind too many Members of this body to the lobby, the gifts, the freebies, the free trips, so that those would be ended, as my colleague the gentleman from Texas [Mr. BRYANT] has been trying to do with a true gift ban limitation in our rules but which we cannot get up for a vote on the floor of this House. Maybe we could have done that after 4:00 yesterday. Likewise, so that we could move forward as there appeared to be some bipartisan support for moving forward earlier in the week but it seems to have vanished away, to do something about campaign finance reform.

That gets to the heart of real reform, to genuinely shaking this body up and giving the American people the kind of reform that they need to have a Congress that is responsible first and foremost to the people that are struggling to climb up that economic ladder instead of tilting all of the benefit to those who are sitting comfortably on top. That is what this is about.

I object and ask for a ''no'' vote on this attempt of the Committee on Science to continue to operate under the same old procedures. I ask that we assure democracy and fair play for our constituents as well as our Members and hopefully put some genuine meaning in the term ''reform.''

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume. I have just a few more comments before I yield back the balance of my time.

Mr. Speaker, I want to thank the gentleman from Texas for his remarks. I am sure we would all agree they were very entertaining.

I should say, Mr. Speaker, the gentleman from Texas has clearly demonstrated, I think, to the satisfaction of this entire body that he does moral outrage very well. But I must admit, he is far more entertaining when he does wide-eyed innocence, and I should hope that I will not have to experience the performance again in the future.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

This is a 17-minute vote.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 187, not voting 15, as follows:

[Roll No. 409]

YEAS—232

Allard	Callahan	Duncan
Archer	Calvert	Dunn
Armey	Camp	Ehlers
Bachus	Canady	Ehrlich
Baker (CA)	Castle	Emerson
Baker (LA)	Chabot	English
Ballenger	Chambliss	Ensign
Barr	Chenoweth	Everett
Barrett (NE)	Christensen	Ewing
Bartlett	Chrysler	Fawell
Barton	Clinger	Fields (TX)
Bass	Coble	Flanagan
Bateman	Coburn	Foley
Bereuter	Collins (GA)	Forbes
Bilbray	Combest	Fowler
Bilirakis	Cooley	Fox
Bliley	Cox	Franks (CT)
Blute	Crane	Franks (NJ)
Boehlert	Crapo	Frelinghuysen
Boehner	Cremeans	Frisa
Bonilla	Cubin	Funderburk
Bono	Cunningham	Gallegly
Brownback	Davis	Ganske
Bryant (TN)	Deal	Gekas
Bunn	DeLay	Gilchrest
Bunning	Diaz-Balart	Gillmor
Burr	Dickey	Gilman
Burton	Doolittle	Goodlatte
Buyer	Dreier	Goodling

Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—187

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Sisisky
Skaggs
Skelton
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Ackerman
Browder
Chapman
Dornan
Harman
Kennedy (MA)
Laughlin
Moakley
Mollohan
Schiff
Schumer
Serrano
Torres
Waters
White

☐ 1214

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

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1854.

☐ 1217

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 21, 1995, amendment No. 5 printed in House Report 104–146 offered by the gentleman from California [Mr. FAZIO] had been disposed of.

DE NOVO VOTE ON AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA, AS AMENDED

The CHAIRMAN. Pursuant to the order of the House today, the Chair will now put the question de novo.

The question is on the amendment offered by the gentleman from California [Mr. FAZIO], as amended.

Mr. FAZIO of California. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. HOUGHTON] be allowed to speak out of order for 2 minutes in order to underscore and explain the amendment that is about to be voted on.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. PACKARD. Mr. Chairman, reserving the right to object, I will only consent to this request if we are given equal time.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. Further reserving the right to object, I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I would amend my request.

The CHAIRMAN. The unanimous-consent request now is that the gentleman from New York [Mr. HOUGHTON] will be given 2 minutes, and the gentleman from California [Mr. PACKARD] will be given 2 minutes.

Mr. PACKARD. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. HOUGHTON] will be recognized for 2 minutes, and the gentleman from California [Mr. PACKARD] will be recognized for 2 minutes.

The Chair recognizes the gentleman from New York [Mr. HOUGHTON].

PARLIAMENTARY INQUIRY

Mr. HOUGHTON. Mr. Chairman, rather than exercising my right to speak for 2 minutes, maybe I can handle this through a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOUGHTON. Am I right that this is a revote on the Fazio amendment, amended by me yesterday?

The CHAIRMAN. The gentleman is correct.

Mr. HOUGHTON. I thank the Chair.

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I appreciate the gentleman yielding me the time.

I would reserve the balance of my time if the gentleman has yielded it to me.

Mr. PACKARD. Mr. Chairman, I would like to close on this, so I will reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. Mr. Chairman, under what authority would the gentleman have the right to close on a unanimous-consent request that was divided?

The CHAIRMAN. The gentleman from California [Mr. PACKARD] is the manager of the bill.

Mr. WATT of North Carolina. But this is not on the bill. Under what authority would he have the right to close? This is a unanimous-consent request.

The CHAIRMAN. This is additional controlled debate, permitted by unanimous consent, on an amendment to the bill.

Mr. FAZIO of California. Mr. Chairman, I know we have had a lot of discussion this morning about Members

who are aggrieved by the circumstances that occurred when this was last voted yesterday, and I certainly relate to the gentleman from Alabama [Mr. HILLIARD] and the gentleman from Pennsylvania [Mr. FOGLIETTA] and their concerns, but I think there is another individual Member who has been aggrieved as well, and I think that is the gentleman from New York [Mr. HOUGHTON].

The gentleman from New York [Mr. HOUGHTON] worked very hard to bring to the floor a compromise amendment which allowed for a reduction in OTA of some $7 million, and yet under the aegis of the Library of Congress, kept this very important scientific advisory entity in existence. He worked his side of the aisle, and he found a majority; he found it once, and I believe he found it twice.

He brings the perspective of perhaps the most successful businessman in this institution to this issue. He has made clear that he believes cutting our research and evaluation capability is not the way to downsize an institution, even the Congress of the United States.

I hope when all Members choose their decision to vote now for the third time on this issue, they will affirm his position, they will vote to support his perspective and, I think, as well, will vote to confirm the fact that when you work the system right here in the Congress, no one, majority or minority, should be able to deprive you of having your day in court, the court of public opinion here on the floor of the House of Representatives.

I ask for an ''aye'' vote on the Houghton-Fazio amendment.

Mr. PACKARD. Mr. Chairman, this is an amendment that will preserve OTA but transfer it to the Library of Congress.

The committee, in their bill, wants to allow the functions of OTA to be done at the Library of Congress or at other agencies that do scientific studies and reports that duplicate what now the OTA does, but the bill eliminates OTA.

This amendment will preserve OTA, but transfer it to the Library of Congress. We think that if we are going to streamline, downsize, and consolidate duplicating services, the committee bill already does that.

I must mention that the Speaker very strongly does not support this amendment and very strongly does not support gutting the Library of Congress. This amendment will take $16.5 million out of the Library of Congress. The Library of Congress would have to discontinue many of its functions in terms of its basic and core functions, in terms of cataloging. It would prevent a full quarter of the cataloging necessary for its new holdings, and it would also take away some of the services to the public. It would cut the preservation program by 15 to 20 percent.

It would also cut the infrastructure support, the automation program, personnel, and procurement processes. It would deeply hurt the Library of Congress.

I urge the Members to vote against this amendment and to defeat the amendment to preserve the OTA, and to support the Speaker.

The CHAIRMAN. All time has expired.

The Chair will now put the question de novo.

The question is on the amendment offered by the gentleman from California [Mr. FAZIO], as amended.

The question was taken; and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. FAZIO of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 204, not voting 10, as follows:

[Roll No. 410]

AYES—220

Abercrombie
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Holden
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sawyer
Schiff
Schroeder
Scott
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—204

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Ackerman
Chapman
Harman
Laughlin
Moakley
Parker
Schumer
Serrano
Solomon
Torres

☐ 1241

Mr. SMITH of Texas changed his vote from ''aye'' to ''no.''

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Chairman, I was unavoidably absent during rollcall 410

to restore funds to the Office of Technology Assessment. Had I been present I would have voted ''aye.''

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLINGER: Page 20, after line 10, insert the following:

In addition, for salaries and expenses of the Congressional Budget Office necessary to carry out the provisions of title I of the Unfunded Mandates Reform Act of 1965 (Pub. L. 104–4), as authorized by section 109 of such Act, $1,100,000.

Page 26, beginning on line 12, strike ''operation and maintenance of the American Folklife Center in the Library;''.

Page 26, line 19, after the first dollar figure, insert the following: ''(less $1,165,000)''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. CLINGER] and a Member opposed will each be recognized for 5 minutes.

Who seeks time in opposition?

Mr. FAZIO of California. Mr. Chairman, I am in opposition to the amendment and would request the allocation of time.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, at the outset I say that anybody who supported the unfunded mandates legislation which we passed earlier this year and which passed by an overwhelming vote, 390 Members in favor of that legislation, should indeed support this amendment. As I said at the time we debated the unfunded mandates legislation, this could be an effective way to reorder the Federal, State, and local relationship. It could also be an effective way to relieve the burdens which we imposed on State and local governments, but only if we were able to implement the law properly, and the CBO plays a vital role in the implementation of the unfunded mandates legislation. CBO must do the estimating as to whether or not the threshold of $50 million nationwide impact is reached or not. If it is not reached, then there is not a point of order lies. If it is reached, then a point of order does lie. The whole credibility of the unfunded mandates legislation would be called into question if those estimates are not accurate. If, in fact, they can be challenged or questioned or found to be somehow ineffective, then I think we lose the legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLINGER. Mr. Chairman, I yield myself 30 seconds.

What we have done is provide an offset of $1,100,000. That is not really sufficient to do the job CBO is charged to do under this legislation, but it will give them a good start on accomplishing that. We offset it from the Folklife Center in the Library of Congress. This is a program that is not authorized, it was not reauthorized. It is a program that receives a large amount of private sector funding, and we would encourage that to continue. It is also a program that frankly should go into the private sector for funding.

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

□ 1245

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my concern is about the Folklife Center, which I know through personal experience to be a most useful entity and function of the Library of Congress. I visited with Chairman CLINGER and Chairman PACKARD about this issue, and they have assured me, and I would like to engage the gentleman from California in a brief colloquy, that this function will not be decimated, that it will simply be rearranged. Am I correct in that understanding?

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I think the American Folklife Center is important and ought to be retained. I cannot assure the gentleman from Missouri that it will be retained, because that will be a function of trying to work out this cut to the library appropriation. But certainly I would work toward that end.

Mr EMERSON. Mr. Chairman, reclaiming my time, I thank the gentleman. I know his commitment to the Folklife Center, and would like, as the process moves forward, to continue to work with him, and also in the authorization process, to ensure that this most vital function is indeed retained.

I thank the gentleman for his generosity in yielding.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. DAVIS], a very valued member of the committee.

Mr. DAVIS. Mr. Chairman, why are we cutting the American Folklife Center? It is a great program, but I think the money can be raised from the private sector. It does not have to come from the governmental sector. More importantly, this money was deauthorized and is not authorized. This money is appropriated but does not have the proper authorization at this point.

Why reprogram dollars to the Congressional Budget Office? I think the answer is very simple. Without this amendment, the unfunded mandates legislation that we passed in a bipartisan manner, both Houses of Congress, signed by the President, will have no teeth, because the CBO, who does the estimating on the costs of each mandate so that we will know what they will cost States and localities and the private sector, will not be able to do it. It will be gutted completely.

Let us not undo the unfunded mandates reform that a bipartisan Congress and the President passed this spring and the President signed into law. Without this amendment, that is exactly what we are doing. So I rise in support of the Clinger amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

I simply want to say at this point I am in a difficult position. I have been urging the chairman of this committee to provide additional funding to CBO. I do think they are going to need at least $2.5 million to take on their new responsibilities. The gentleman from Virginia, Mr. DAVIS, I think just outlined, as Chairman CLINGER has, the responsibility that we have to give CBO the resources to do what we have just asked them to do in the first 100 days of this Congress.

But I do not want to do it on the back of the Folklife Center. The gentleman from California [Mr. THOMAS], the chairman of the House Committee on Oversight, tells us that they will take up the authorization of this entity in due time. But if this amendment is adopted, there is obviously insufficient support for it, and therefore he may not even take up the authorization.

I think people who believe that the Folklife Center has value, as I do, ought to vote against this amendment, and we ought to find additional 602(b) allocations to this subcommittee to help CBO when we get to conference. This is obviously a conferrable item with the Senate, a joint item we will both have to consider.

Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the Members of the House who do not know what the American Folklife Center is, I did not either, until I came on the House a couple years ago and we had an authorization bill under suspension, and I was told at the door that this was Lawrence Welk's homestead all over again. So like a hoard of other people, I voted no, only to get back to my office and have a phone call from a constituent, who happened to be chairman of the board of the American Folklife Center.

I learned out in a hurry what it was all about. I want to say now I am a believer. I have seen it. There are about 12 full-time equivalents there. Last year they served the needs of 9,000 researchers, a wonderful repository of American folklife and folklore.

One small example of what they do: Years ago, wax cylinders were made recording Indian chiefs and Indians of western tribes, recollections of their

tribe, native music and things of this kind. These were languishing somewhere in the Library of Congress. This organization brought them forth, perfected them, made them into digitized CD–ROM's, and now we have that resource preserved. We need some organization that is committed to this. For $1.25 million, surely we can continue this kind of enterprise.

Mr. CLINGER. Mr. Chairman, I yield myself 15 seconds merely to say last year the American Folklife Center raised $330,000 in private funding. It obviously does attract a great deal of private support. The other point I would make is that under our amendment, we do in no way limit the Library of Congress in the ability to apply funds to that purpose, if they so choose.

Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from California [Mr. PACKARD], the chairman of the subcommittee.

Mr. PACKARD. Mr. Chairman, I will take a short time just to say I am not going to actively oppose this amendment, but I do have some concerns about continually raiding the Library of Congress. The last amendment that passed was $16.5 million. This is another $1.165 million. That does give me some concerns. I hope we can find a way to protect and preserve the American Folklife Center.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I sympathize with the motives of the gentleman. He has to find money for the unfunded mandates. But clearly the American Folklife Center is not the place to cut, and would be a devastating cut. What we are basically doing is hurting the culture, the diverse culture, of this country.

This Library of Congress Folklife Center has 1.5 million manuscripts, sound recordings, photographs, films, and periodicals. It is unique in the world. It reveals our history through collections of conservations, arts, crafts, songs, traditions of everyday Americans, our cowboy history, our native American history, our Mexican-American history.

I have had many constituents call with great concerns about what this cut would do. This is not the right thing to do. We should not go after this center that is good, that is well-managed, and I urge my colleagues to defeat the amendment.

Mr. Chairman, I rise today to oppose the Clinger amendment because I believe there is nothing more sacred to the people of this country than our rich, diverse culture.

The American Folklife Center housed in the Library of Congress maintains 1.5 million manuscripts, sound recordings, photographs, films, and periodicals. It is unique in the world. It reveals our history through collections of conversations, arts, crafts, songs, and traditions of everyday Americans.

My State of New Mexico has a particularly diverse history. Ranchers rose every day of their lives to herd cattle and sing songs around the campfire during cattle drives and the Folklife Center provides the only recordings and conversations we have of this folk cultures.

Mexican-Americans in New Mexico settled this country long before Columbus landed on Plymouth Rock. Their rich contributions to our culture should be and are chronicled in the John Donald Robb collection of Spanish-American folksongs and similar artifacts.

New Mexico is also blessed with a rich Native American culture. The American Folklife Center documents that culture with early recordings of Zuni songs and folklore, which date back to 1890. There are also recordings from the eight Pueblos in northern New Mexico, and materials from the Mascalero and Chiricahua Apache peoples.

As a nation, we have done more to destroy native American culture than to preserve it; recent appropriation bills would kill all funding for the National Museum of American Indian that would have been built here in Washington. Let's do the right thing and preserve the American Folklife Center collection of native American culture.

The American Folklife Center brings history to life like no other museum we have. It keeps pieces of our history alive for future generations to understand. When our children want to know what songs their relatives sang, or what native American language sounded like 100 years ago, the Folklife Center can provide that information.

The center has been part of the Library of Congress since 1928—it survived the Depression and post-World War II downsizing, surely we can preserve it now.

It is internationally renowned and heavily used. It's the sort of education that we must continue to cherish and fund.

The center's budget includes not just programs but collections. Its Archive of Folk Culture contains nearly 1.5 million sound recordings, photographs, manuscripts, and other unique materials representing American and (to a smaller extent) world folk music, folklore, and folklife traditions.

The Archive has been part of the Library since 1928, surviving the 1930's, the post-WWII downsizing, and other vicissitudes. It is internationally renowned and heavily used. Users include researchers, publishing and record companies from the private sector, and members of the communities documented in the collections. Its American Indian holdings alone are unparalleled in the world; its African-American holdings are unequalled. Every State, every region, and nearly every ethnic group are likewise represented.

The collections-based portion of the center's budget amounts to approximately three-fourths of the total budget; the other one-fourth covers programs and general operations overhead.

The center in 1994 raised or leveraged funds amounting to about $350,000, or one-third again the appropriated budget. Fund-raising will continue to increase. But fund-raising for the basic collections support is difficult if not impossible. That base of public support, for the center and the Library as a whole, is what the public as well as donors expect the Congress to fund.

Some supporters of the idea of removing the center's budget cite the Western Folklife Center in Elko, NV, as an example of a folklife center succeeding on private funding. This is not true, as the artistic director of the Western Folklife Center, Hal Cannon, testifies. First, that center has benefited greatly from tax-based support—Federal, State, and local. Second, the Western Folklife Center does not have the responsibility for a unique and heavily used national archive of 1.5 million items; the personnel to support such a collection adequately—acquisitions, processing, preservation, reference services—cannot be maintained by raising private funds.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from California [Mr. CONDIT], a very valuable member of the committee, a supporter of this legislation, and a cosponsor of this legislation.

Mr. CONDIT. Mr. Chairman, in March the President signed the Unfunded Mandate Reform Act into law. We all debated that issue on the floor, and we are all well aware we needed to take action that would require us under the new law to come up with money to pay for the studies that CBO had to do.

That is basically what we are doing here today, is meeting our obligation to come up with some money. It is probably not enough money. We will have to do this again. It is unfortunate we have to take the money from the American Folklife Center. I understand that and am sympathetic to this. Somebody needs to speak on behalf of local government, county government, and State government on this issue. We have to do an assessment of the mandates so that we can get an actual cost. That is basically what we are doing today. We are doing it for local and State governments, and we need to be supportive of that amendment.

In addition to that, it has been mentioned, and I will reiterate for the Members on our side, this is an activity that has the support of the private citizens, and they can raise the money and it is a way for us to go. I am just saying we can move to the private sector and we can raise some money to help this American Folklife Center, as well as the gentleman from California [Mr. FAZIO] mentioned that we might be able to conference this and work out another solution. If we can do that, that is great.

But we have to fulfill our commitment on the unfunded mandate. The President signed the law. We in Congress need to come up with this component to make it happen. So ask all Members to vote in support of the amendment.

Mr. CLINGER. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio [Mr. PORTMAN], an architect of the unfunded mandates legislation and a strong supporter of this amendment.

Mr. PORTMAN. Mr. Chairman, I will be brief, by necessity. Let me say I think the Folklife Center can get a lot more in private funding. They did raise $330,000 in 1994, three times what they raised in 1990. The one in the western region does it entirely by private funds. I think that offset can be handled.

If you voted for the unfunded mandate bill, you should vote ''yes'' on this amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just want to reiterate the importance of the Folklife Center. I think we all understand we ought to fulfill our responsibility to CBO to allow them to do the workload we have just given them, and I am certainly hopeful we will do that in conference. But I would not want Members to vote for this amendment, because if they do, they will end up doing in the Folklife Center at a time when it may be impossible to resurrect it and bring it back as an authorized entity.

The American Folklife Center has been an integral part of the Library of Congress since 1977, but really 1928 as the archives of folk culture. Its budget includes not just programs, but collections; 1.5 million sound recordings, photographs, manuscripts, films, videos, periodicals, and other unique materials representing American and to some smaller degree world folk music, folk lore and folk life traditions.

This is something we ought not to be doing in for $1.5 million. This is an entity that ought to be preserved. They will be raising more and more private fund sector funds, as the library in general is, but if we do them in, they will not be in a position to do that. I urge Members defeat this amendment.

PARLIAMENTARY INQUIRY

Mr. PACKARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PACKARD. Mr. Chairman, I understand that we will be delaying votes until the end. Does the rule call for this vote to be a 15-minute vote?

The CHAIRMAN. This vote will be a 15-minute vote. Amendments 8 through 11 will then be debated and the votes held until the end.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 159, not voting 15, as follows:

[Roll No. 411]

AYES—260

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
English
Ensign
Everett
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (CA)
Minge
Molinari
Montgomery
Moorhead
Murtha
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Towns
Traficant
Upton
Volkmer
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—159

Abercrombie
Baesler
Baker (LA)
Baldacci
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonilla
Bonior
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Graham
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Linder
Livingston
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCrery
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (FL)
Mineta
Mink
Mollohan
Moran
Morella
Myrick
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Pomeroy
Rahall
Rangel
Reynolds
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Taylor (NC)
Tejeda
Thompson
Thornton
Torricelli
Tucker
Velazquez
Vento
Visclosky
Vucanovich
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—15

Ackerman
Browder
Chapman
Ford
Johnson (CT)
Laughlin
Lazio
Moakley
Parker
Pelosi
Richardson
Schumer
Serrano
Stokes
Torres

□ 1314

The Clerk announced the following pair:

On this vote:

Mr. Lazio of New York for, with Mr. Moakley against.

Messrs. BISHOP, EWING, POMEROY, and EDWARDS changed their vote from ''aye'' to ''no.''

Messrs. SAM JOHNSON of Texas, PORTER, and LIGHTFOOT changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ORTON: Page 25, strike lines 14 through 20. Page 32, line 16, strike ''$16,312,000'' and insert ''$23,312,000''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Utah [Mr. ORTON] and a Member opposed will each be recognized for 5 minutes. Who seeks time in opposition?

Mr. PACKARD. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair will repeat, the request for recorded votes on the next four amendments will be postponed until completion of amendment No. 11, pursuant to House Resolution 169.

The Chair recognizes the gentleman from Utah [Mr. ORTON].

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

Mr. ORTON. Mr. Chairman, I yield myself 2 minutes and 45 seconds.

Before beginning, Mr. Chairman, since the House continues to waive its own rules prohibiting committees from meeting in voting session at the same time we are in voting session on the floor, I am currently missing recorded votes in the Committee on Banking and Financial Services on a bill of which I am a cosponsor, to be here to present this amendment on the floor.

Mr. Chairman, my amendment is deficit neutral. It is also simple. It shifts $7 million of increased spending on the Botanic Garden to restore $7 million of cuts in the Federal depository library program. Since 1985 the Federal depository library program has been a partnership between the Federal Government and 1,400 libraries around the Nation to provide the public with local access to Government information and documents.

There is widespread use of these libraries, Mr. Chairman. One hundred sixty-seven thousand Americans per week utilize these collections. The legislation before us would cut 50 percent of funding from these libraries. Overall, this bill cuts only 8 percent of legislative branch appropriations, and actually increases spending on the Botanic Garden by over 200 percent.

The Botanic Garden in the 1995 appropriation was $3 million. In 1996 it is $10 million. The $7 million increase is the first of a 3-year $21 million appropriation for construction on the Botanic Garden. The future of the garden is uncertain. It is listed for transfer from the Congress to the Department of Agriculture. The House is also considering proposals to privatize or move the garden.

Cutting spending is tough business. In doing so, we must set priorities. In this Member's opinion, funding 14,000 libraries is a higher priority than constructing improvements on a building with a very uncertain future. Even the Architect of the Capitol, in testifying before the committee, stated the construction improvements would be of low priority, and the Botanic Garden would be subject to consideration for privatization.

Mr. Chairman, I will refer to two letters which will be included, urging support for my amendment. One is from the American Library Association, and the other is a letter from both the American Association of Law Libraries and the Association of Research Libraries.

Mr. Chairman, I urge support for my amendment.

Mr. Chairman, my amendment is a sensible, deficit-neutral approach that will restore $7 million in critical funding to the Federal Depository Library Program—a true hallmark of our democratic society.

Since 1895, this community-based partnership between the public and private sectors has provided unfettered public access to Government information—access that is vital to effective citizen participation in the democratic process. The Federal Depository Library Program is a partnership between 1,400 designated depository libraries and the Federal Government—the sole purpose of which is to disseminate Government information to the public, free of charge.

To give you an idea of the widespread use of the services provided by this program, the Public Printer testified earlier this year that more than 167,000 persons utilize Federal Depository library collections nationwide each week.

The GPO's 1996 request for the Depository Library Program was $2 million less than the funding level for the previous year. The Public Printer testified that this request was sufficient to maintain program responsibilities, while also managing the transition to the appropriate use of electronic media.

But, now these facilities are being asked to accommodate a 50 percent increase in electronically formatted copies, while taking a 50 percent cut in their funding source. While overall, the fiscal year 1996 legislative branch appropriations bill only represents an 8 percent cut from last year's funding level.

The purpose of the committee's 50 percent reduction in funding is to hasten the transition to electronic publishing, by requiring that executive branch agencies reimburse the GPO for the costs of producing and distributing paper and microfiche documents to depository libraries. The reduction in funding is a disincentive for Government agencies to participate in the Federal Depository Library Program.

This will result in a drastic reduction in the number of printed documents produced by the agencies, and will ultimately hinder free public access to Government information. Also, these deep cuts will result in new costs to depository libraries, as more time and effort will have to be expended to locate and acquire Government agency information products.

The president of the American Library Association testified earlier in the year that additional equipment and support would have to be provided to the depository libraries in order to implement the overly aggressive electronic program proposed in this legislation. Furthermore, some of the smaller, rural, public libraries don't have the necessary resources or the technology that the larger, research libraries have.

But, the GPO and the depository libraries recognize the increasing need to move to an effective, electronically-based program, and they are making great strides in new technology. The GPO Access System was created to provide no-fee, online dissemination—via the Internet—of such publications as the CONGRESSIONAL RECORD and the Federal Register. Now, the public has free access to this service, either through on-site equipment at depository libraries or through off-site electronic gateways established in cooperation with the libraries.

As important as this transition to electronic dissemination of information is, one must realize that not all Government information can be distributed electronically. Since the informational needs of each community are different, it is important to maintain a variety of formats—including print and microfiche.

The distribution of electronic copies has been steadily increasing, with about 454,000 copies projected for fiscal year 1996—a 50-percent increase over fiscal year 1995.

If we are to expect our Federal depository libraries to provide free, convenient access to Government information, we must allow for a more sufficient period of transition to an electronically-based program.

My amendment restores $7 million to this vital program, asking our depository libraries to take a more reasonable cut of 22 percent from the GPO's request.

I would now like to discuss the source of this critical funding.

The fiscal year 1995 appropriation for the Botanic Garden was $3.23 million. This legislation provides an appropriation of $10.053 million for fiscal year 1996; that represents a 200-percent increase at a time when other agencies and operations are being asked to take their share of cuts.

The $7 million increase over last year has been provided for a renovation of the Botanic Garden's conservatory. This is one of three, annual $7 million expenditures to carry out this renovation. It would be nice to find the funding for this renovation, but we must set priorities for our limited resources.

During hearings before the legislative branch appropriations subcommittee, the question was raised as to whether this renovation expenditure should be reconsidered in light of suggestions to privatize the Botanic Garden. Questions were also raised as to the primary function of the Botanic Garden.

The Architect of the Capitol agreed that the Botanic Garden's function is limited, and that the only reason for housing the facility in its current place is for historical reasons.

One of the members of the subcommittee suggested that the Botanic Garden might be able to serve its function better if it were privately funded. It was also suggested that services could be obtained from local landscape and nursery contractors.

Finally, the Architect was asked the following question: ''If the committee asked the Architect's office to reduce their budget by 10, 15, 20, or 25 percent for the next budget year, would this (Botanic Garden) be a low-priority item that you would recommend spinning off to privatize?''

The Architect's response: ''It would.''

One must ask the question: Should we be spending valuable resources on renovating a facility whose ultimate fate has not been determined?

We are faced here with a question of priorities—increased funding for a limited facility in Washington, DC, or a much needed investment in the 1,400 depository libraries throughout the country.

Let us ease the transition of our depository libraries to electronic dissemination of information, and assist these facilities in carrying out their primary objective—which is to provide vital Government information to the public.

Mr. Chairman, I include for the RECORD the information I referred to.

The information referred to is as follows:

AMERICAN ASSOCIATION
OF LAW LIBRARIES,
Washington, DC, June 20, 1995.

Hon. WILLIAM ORTON,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ORTON: On behalf of the American Association of Law Libraries and the Association of Research Libraries, we would like to express our gratitude to you for offering an amendment to H.R. 1854 to restore $7 million to the Government Printing Office's Salaries and Expenses (S&E) appropriations. As you know, this

fund supports the Depository Library Program which provides government information in all formats to over 1,400 Congressionally designated depository libraries.

We are very concerned that the proposed fifty percent reduction in funding for S&E, shifting the cost burden to agencies as an unfunded mandate, will drastically reduce the number of documents disseminated to the American public through depository libraries. Further, we believe that the need for a well-studied transition period Must be recognized as the government converts to an effective electronically-based environment.

Thank you again for offering this amendment to restore funding for the Depository Library Program. We are very appreciative of your efforts and grateful for your support.

Sincerely,

ROBERT L. OAKLEY,
Washington Affairs Representative.
PRUDENCE S. ADLER,
Association of Research Libraries, Assistant Executive Director.

AMERICAN LIBRARY ASSOCIATION,
Washington, DC, June 20, 1995.

Hon. WILLIAM ORTON,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. ORTON: On behalf of the American Library Association, I write to tell you of our support for your amendment to restore $7,000,000 to the Superintendent of Documents Salaries and Expenses Appropriation as the House of Representatives considers H.R. 1854, the Legislative Branch Appropriations for FY96. The House Appropriations Committee cut this appropriation by 50 percent from the FY95 funding level, a cut far in excess of the overall 8 percent reduction in the bill for the Legislative Branch. Additionally, H.R. 1854 amends the statute governing the Depository Library Program, a procedure not appropriate on an appropriations bill.

The SuDocs Salaries and Expenses appropriation funds the Depository Library Program which provides government publications in print, microfiche and electronic formats to constituents through the nearly 1,400 Congressionally designated depository libraries. This drastic cut does not provide for the orderly transition that the government must follow to assure that its statutory requirements are fulfilled to disseminate government information to the public under Title 44, United States Code.

While intended to encourage agencies to publish electronically, this slash in the appropriation will more likely result in a great reduction in the number of printed documents made available to the public. Agencies have not budgeted in FY96 for depository copies. Agencies may well shirk their responsibilities to disseminate agency information and the number of fugitive documents—those that escape the program—may increase enormously.

Additionally, the deep cuts in appropriations for the Depository Library Program will result in an unfunded mandate for the state and local governments that support depositories, and result in additional costs to participating libraries as more time and effort will be invested to locate and acquire publications. Many libraries will not have the money to buy the equipment and paper needed to provide on-demand print service to the public.

A 1992 survey of depository libraries confirmed that participating libraries make significant contributions in personnel, equipment, facilities, and resources (including resources beyond those provided by the Government Printing Office) to carry out their part of the partnership with the government to ensure that the American people have equitable and ready access to federal information.

The likely result of the change in funding and the shift to an electronic Depository Library Program is a loss of information to the American public as the government undergoes a transition from a print-based to an electronic environment. In 1994, GPO acquired, cataloged, and distributed approximately 21 million copies of 65,000 documents to depository libraries for about $1 a copy. Of these titles, only 306 were in electronic format.

In addition, the GPO Access System now provides 24-hour no-fee public access through depository libraries and gateways to the Congressional Record, Federal Register, text of all published versions of bills introduced in Congress, the History of Bills, the U.S. Code, and Public Laws of the 104th Congress. GPO plans a gateway in every state. But that development is in jeopardy because Congress required GPO Access to be funded by cost savings from the GPO's distribution of publications. With the reduction you are being asked to vote on today, GPO will no longer be able to support and expand the resources of GPO Access.

The American Library Association is also very concerned about the Appropriations Committee's decision to publish only on CD–ROM the Serial Set and the bound Congressional Record. Everyone does not have access yet to a computer for their information needs. The elimination of the print format of these very important titles will create information have-nots. Further, these two publications are at the core of Congressional information and serve as the official record of the daily activities of Congress. The longevity and durability of the CD–ROM format remain untested. In addition, the paper format has always served as the permanent and official record.

Congress should hold hearings and study the cost effectiveness and impact of these policy changes on public access to government information.

The American Library Association deeply appreciates your willingness to offer an amendment to restore funds to the appropriations for the Depository Library Program. ALA is a nonprofit educational organization of 57,000 librarians, library trustees, and friends of libraries.

Sincerely,

ARTHUR CURLEY,
President, American Library Association.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us make it clear to the Members of the House, we are not going to cut in this bill our commitment to the depository libraries. What we are doing in this bill is requesting that the agencies of Government, including the administration agencies in the executive branch, as they provide documents printing for depository libraries, they will have to pay for their own print on paper rather than having the GPO pay for it out of their own funds. Therefore, the work will still be done. It is just that we are transferring the costs to those that require the printing to be done.

In reference to the conservatory, this is a historic building. We all see it. It is the glass building right here close to Capitol Hill. It is falling apart. We simply have to preserve and protect it, as well as to repair it, or else it will simply not be able to be visited by people who want to visit the exhibits, because of safety reasons.

We have worked out a program where we have cut them back in their request for construction money from $28 million to $21 million. If we take this $7 million away, then we may lose the private funds that are being raised and contributed for the purpose of the National Garden, but we also undercut the entire process of renovation. We think that would be a very sad mistake.

Mr. Chairman, it is only right that the agencies that request the printing to be done pay for their own requests. That is all our bill does. This would frustrate that process. Mr. Chairman, I rise to oppose the amendment.

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

Mr. ORTON. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. Owens].

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

Mr. OWENS. Mr. Chairman, I rise in support of the Orton amendment.

Mr. Chairman, we cannot promote the general welfare unless the citizens are informed. Our people cannot fruitfully engage in the pursuit of happiness in this complicated information age unless they are informed. For the past 100 years Congress has paid for Government publications to be sent to depository libraries located in each of our districts across the country. The depository library program ensures that ordinary citizens can have access to Government information, but H.R. 1854 reverses 100 years of precedent by having executive branch agencies reimburse the Government Printing Office for their publications. I assure the Members, no executive branch agency will have it as a priority. They will not do it.

H.R. 1854 also mandates a massive shift from print to electronic dissemination of information. However, in promoting a ''cyber government'', the bill ignores the fact that we cannot electronically reach most of our constituents through these libraries. They are not wired. They do not have the ability to receive electronic information.

Mr. Chairman, information must be produced not only in electronic formats, but also in traditional print formats, in order to accommodate the wide range of the majority of our people's needs and abilities. Many citizens are not yet ready to use Government information in an electronic format. Most libraries do not have the capacity to receive it that way.

Mr. Chairman, H.R. 1854 also eliminates the availability of free copies of the CONGRESSIONAL RECORD that we send to our public schools, hospitals, and nonprofit libraries, not to mention free copies of bills, reports, and other documents that we supply. These proposed changes do not take us anywhere. I urge a ''yes'' vote on the amendment.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS], chairman of the Committee on House Oversight.

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

Mr. THOMAS. Mr. Chairman, the bill number is H.R. 1854. The concept driving this amendment is truly circa 1854. No one is talking about cutting off depository libraries from getting information. In fact, we want to promote it. What we do not want to encourage is a central paper printing process which then produces a bulk paper product, which is then shipped across country, and then made available at a depository library. That is what we are trying to change.

More than 90 percent of the libraries transmit, send, and receive electronic data today. What we are trying to do is tell the executive branch agencies we are not going to fund them. I have no quarrel with where the money comes from, the Botanic Garden, that is a secondary issue. It is up to those people to decide what they are going to do.

I object strenuously, that they are taking money from congressional sources and funding an executive branch agency when they do not want to spend the money themselves. We should not be forced to pay the money for the executive branch to pay for perpetuating an 1854 paper world. What we want to do is get up to speed in sending that same data electronically, and by CD ROM. If taxpayers want a hard copy at the depository library, the library will produce it there. Taxpayers do not pay for shipping wood, printed on wood, across country. That is what they did in the 19th century.

What we are trying to do is stop that. This amendment perpetuates it. It is wrong. It may be revenue neutral, but the concept is wrong. Unfortunately, I am going to ask Members to vote against the amendment of the gentleman from Utah.

The CHAIRMAN. The gentleman from Utah [Mr. ORTON] has 1¼ minutes remaining, and the gentleman from California [Mr. PACKARD] has 1 minute remaining and the right to close.

Mr. ORTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in response to the gentleman, I would say we do need to gear up the electronic highway, we do need to transmit information electronically. Hopefully, this will save us costs. However, the reality is costs and transition time to shift to an electronic-based program, while placing an additional burden on the libraries in the immediate future.

Demand for electronic copies is projected to increase by 50 percent in just 1 year. A 50-percent cut in funding right now will make it impossible to meet this demand.

Also, Mr. Chairman, the informational needs of each community are different. Not every community in America has an off ramp from the electronic highway. Not all Government information can be distributed electronically. It is critical to provide documents and Federal information by print, microfiche, and CD ROM. The result of a 50 percent budget cut would be significant reduction of services and elimination of some Federal depository libraries.

Mr. Chairman, I would urge my colleagues postpone the $7 million capital construction to the building of uncertain future, and let us continue to fund the Federal depository libraries. I urge support for my amendment.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee removed from the conservatory construction funds $7 million in this year 1995 rescission bill. We have already cut them back $7 million. To cut them back an additional $7 million would be simply gutting the renovation process.

Let me speak very briefly to the idea of access to the electronic equipment and information, Mr. Chairman. Virtually all, over 90 percent of the depository libraries, have access to electronic information through Internet and other electronic access equipment. To say that they cannot access it is simply not true. Furthermore, we ought to push them toward access. We ought to nudge them toward putting in the equipment that would give them access to electronic information and facilitate that process.

Frankly, Mr. Chairman, if we move this process to the electronic age, we will save more than the $7 million that we are trying to save in paperwork that is now being printed. We will save it with the electronic age.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Utah [Mr. ORTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Utah [Mr. ORTON] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 34, line 24, strike out ''3,900'' and insert in lieu thereof ''3,550''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Wisconsin [Mr. KLUG] and a Member opposed will each be recognized for 5 minutes.

Mr. DIXON. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. DIXON] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to congratulate the gentleman from California [Mr. PACKARD] and the fine work the Committee on Appropriations has done to this point in trying to execute one of the key platforms of the Republican agenda, now that we have taken control of the House, and that is a trend toward prviatization.

This appropriations bill we have in front of us today does it when it comes to the beauty shop and barber shop here in the House, the elimination of the folding room, and we all hope the eventual sale of a powerplant that the U.S. Congress actually owns and operates.

I have to tell the Members that I think this amendment is far too timid when it comes to the matter of the Government Printing Office. Mr. Chairman, the Government Printing Office has 4,000 employees in it, which essentially serve at the will of Congress itself to print documents connected to our business here. I think we have to ask ourselves why it is in 1995 that we run a printing plant.

There are 115,000 private printers in the United States. Assuredly one of them is capable of printing the CONGRESSIONAL RECORD at much more reduced costs than what we presently pay the Government Printing Office on a regular basis. Since 1991 the GPO has lost money every year. For my colleagues here in 1994, they may remember the bizarre situation where GPO lost business and suddenly decided it had to raise rates in order to make up for the shortfall. What business in America, if they lose business, would suddenly increase their costs?

□ 1330

This amendment we have in front of us, Mr. Chairman, will reduce the Government Printing Office staffing levels. The Subcommittee on Legislative of the Committee on Appropriations has already reduced it from 4,200 to 3,900. This amendment will reduce it by another 350 slots. In the long run, what we hope we will accomplish is a glide path to force the Government Printing Office to essentially become a procurement agency in the next several years and to close down the printing function altogether. In fact, the committee report itself directs the Public Printer to study the outsourcing of both security personnel and custodial care which account for 144 of the 350 positions that we are discussing today.

I think this amendment is absolutely crucial if we are going to be serious about privatization in this House.

Mr. DIXON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, the gentleman talks about a printing plant. I hope the gentleman has visited that plant. In point of fact, it is in the Internet, it is on the World Net. It, in fact, has the state of the art technology in terms of information transfer available to it. Individuals anywhere in this country can get the CONGRESSIONAL RECORD and other Government documents in their home and can print it, presuming that they have the proper facilities, as we get it ourselves.

The fact of the matter is, in addition, 80 percent of the GPO's workload is contracted out right now to the private sector. The fact of the matter is there are certain things; namely the CONGRESSIONAL RECORD and other documents that we need inhouse for security reasons or other reasons.

The gentleman talks about a glide path. Approximately 5,000 employees 3 years ago, down to 4,104. This bill brings them down to 3,900. They are on a glide path, they are reinventing, they are downsizing.

This will cost 20 million additional dollars. The reason being, because it will require RIF's, 554 to be exact if they come down that fast, and there will be a tremendous cost, not a cost savings.

This is a bad amendment, it is not timely, and it will undermine the ability to get the information that this Congress needs in a timely fashion.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS], who has been an absolute tireless champion on reform of the Government Printing Office and has been a mentor on this issue since I first got here in 1990.

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

Mr. ROBERTS. Mr. Chairman, I join the gentleman from Wisconsin.

As the ranking Republican Member on the House-Senate Joint Committee on Printing, I have been alarmed with the dramatic losses being incurred by the GPO. The gentleman from Maryland asked if anybody has been down to the GPO. I have, many, many times.

This year the GPO estimates its losses to be nearly $10 million. The Joint Committee has requested four different studies over the last several years to be conducted by the GAO, and Arthur Andersen, and the Public Printer's GPO 2000 study, to determine the cause and options to reduce these losses. This is $10 million.

I think it is far more sensitive to employees to really gradually try to reduce the work force, if we can, than at a future date to be forced to totally eliminate the entire agency.

The gentleman from Maryland has indicated that the argument that we are going to have RIF's here and it is going to cost money—that is false and shortsighted. We do not have to go to RIF's. The GPO can do it. It is not required to utilize RIF's. Even if the GPO chooses to do so, the amendment will still save taxpayers over $6 million.

We are talking about 350 positions. This has been a glidepath but, again, this agency has lost over $10 million. They are under orders from the Joint Committee to quit losing money, and it is not the fault of the employees. It is that the GPO is the victim of a technological revolution in regard to printing.

The gentleman's amendment is in good standing. It is the continued way to go to save money. We will await the studies and see if we can make further savings. I urge my colleagues to support the amendment of the gentleman from Wisconsin.

Mr. DIXON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I rise today to express my strong opposition to the Klug-Roberts amendment. The Government Printing Office has served our country for 100 years and they still have a vital role.

Just to clarify for the American people, to give them a sense of what this agency does on a daily basis, they produce 20,000 copies of the CONGRESSIONAL RECORD, 32,000 copies of the Federal Register, 26,000 copies of Commerce Business Daily and process nearly 2,000 orders from the American people. All of this is being done despite a 50-percent decrease in staff since 1975.

I would submit that in fact the committee considered this issue very thoroughly. They made reductions to the tune of 200 positions that are being reduced. This amendment would add to that 350, and rest assured, you cannot do 550 positions without some additional cost. You cannot do it all through attrition. There will in fact be some cost as a result of RIF's.

But the final point I would like to make is this: They do it efficiently. They produce the overnight service, the 24-hour turnaround that is required to meet our needs. There is no plant, no facility on the east coast, in the mid-Atlantic area that has shown the capacity to deliver this work product in a timely, efficient, and most importantly consistent manner as the Government Printing Office.

I believe I would have to return to the old adage: ''If it ain't broke, don't fix it.''

Mr. KLUG. Mr. Chairman, I assume I have the right to close.

The CHAIRMAN. The gentleman from California [Mr. DIXON], a member of the committee, has the right to close.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time.

Let me respond to a couple of points, if I can, Mr. Chairman. First of all the argument that nobody on the east coast is capable of doing this work.

Somewhere in India or Bangkok today a reporter from the Wall Street Journal will file a story, it will be edited in New York, sent up on a satellite dish, and the Wall Street Journal will end up on my doorstep the next morning in Madison, WI. Assuredly somebody is capable on the east coast of publishing the CONGRESSIONAL RECORD overnight.

In terms of the cost of RIF's, let's make it very clear on the arithmetic for everybody who is in this Chamber today. On the average it costs us $55,000 an employee at the Government Printing Office. The one-time cost if we have to end up paying those people a RIF is $25,000. That means at a minimum we save $30,000 a year on each single employee. It does not cost us money. It saves us $6 million.

In the long run if what we are interested in is attempting to save money and to move toward privatization, then it is clear we have got to be very aggressive on privatizing services in the Government Printing Office, and RIF'ing, and eliminating another 350 positions is exactly the way to do it.

Mr. DIXON. Mr. Chairman, I yield the balance of the time to the gentleman from North Carolina [Mr. ROSE], a former chairman of the Joint Committee on Printing.

The CHAIRMAN. The gentleman from North Carolina is recognized for 2 minutes.

Mr. ROSE. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, to my colleagues on the other side of the aisle, I would love to let the Wall Street Journal print the CONGRESSIONAL RECORD if we could sell ads, but that is another day.

The point is clear: In my opinion, as for 4 years I was chairman of the House Administration Committee and either chairman or vice chairman of the Joint Committee on Printing, the Government Printing Office is on a glide path as the gentleman from Maryland [Mr. HOYER] so well put. It will cost money. It will cost money if we have to reduce under this amendment as quickly as this amendment says we should.

I am in sympathy with the objects that the gentleman who authored this amendment had. But let me tell you a little story. The other night, the White House wanted something printed in color and they were a little afraid to work it through the Government Printing Office, so they went to Kinko's to get 30—however many copies they needed—Kinko's in Washington. Kinko's could not handle it as quickly as they wanted it, so they farmed it out all over town.

It wound up costing $30,000. It would have cost $5,000 if it had been procured, and that is what GPO basically is today, is a procurement shop. It would have been $5,000 if it had been procured through GPO, in color. It would have been $3,000 if it had been done in black and white. THe quick turnaround time necessary for printing the documents that we use in this institution is what keeps this work force alive and in necessary for us.

My colleagues, I beg you, let's don't speed up the glide path that the Government Printing Office is on now. You are going to pull a nose dive off that is

going to have a crash and is going to cost us a lot more than if the normal path that has already been set up for many years now is followed.

The Government Printing Office is basically a procurement shop. I do not want the Defense Department being able to go out and choose whatever printer it wants to print its business. I want the Government Printing Office to be competitively bidding those jobs out in the private sector as it has been for years. I hope that will continue. I respectfully ask my colleagues, please don't vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] will be postponed.

It is now in order to consider amendment No. 10 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. CHRISTENSEN

Mr. CHRISTENSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHRISTENSEN: Page 49, after line 25, insert the following new section:

SEC. 312. None of the funds made available in this Act may be used for the salaries or expenses of any elevator operator in the House of Representatives office buildings.

The CHAIRMAN. Pursuant to the rule, the gentleman from Nebraska [Mr. CHRISTENSEN] and a Member opposed will each be recognized for 5 minutes.

Mr. PACKARD. Mr. Chairman, I would like to seek the time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. CHRISTENSEN].

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

Mr. CHRISTENSEN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the time has come for Members of Congress to start pushing their own buttons. Yes, that grievous, arduous task of pushing your own elevator button. No, my amendment does not propose to eliminate elevators, nor does my amendment require the Members to take the steps from here out. All my amendment requires is that we begin pushing our own elevator button.

Last week a young woman who had been visiting my office commented to my staff that she was shocked to see that we still had elevator operators in the House office buildings. She remarked, ''I though you guys got rid of those the first week.''

Well, if we the Members of this body have heard that comment once, we have heard it too many times. My amendment very simply would eliminate funding for the 10 elevator operators in the House office buildings, not the Capitol, just the House office buildings.

Each and every day this body convenes in committees and task forces all over the Capitol to make tough choices about changing the way our Government does business. We were elected to change the way our Government does business because it is no longer acceptable to Americans for us to mortgage the future of our Nation and our children.

My amendment is not going to bring the deficit down a whole lot. It is not going to work on the debt, but it is going to save the taxpayers $263,000 this year in salary and benefits.

I understand some very well-intentioned Members may suggest that we should commission a study on this issue. A study. How anyone could suggest a study to examine how to eliminate 10 elevator operators and keep a straight face while saying it is beyond me. With a $5 trillion debt, the last thing we need is another study.

In our economy, when businesses are forced to downsize, it is the perks that go first: company cars, expense accounts, and corporate country club memberships, all cut back in the name of the bottom line. By what justification can any of us say that we must downsize Government but keep House elevator operators?

I will be the first to admit that many of the people who run the automatic elevators are good, decent people. However, we must remember that any time a company is forced to downsize, many kind and friendly people may lose their jobs as well.

It might be argued here today that the purpose of the operators is to assist Members in arriving at the floor in time for votes. But I submit that my amendment has no bearing whatsoever on the elevator operators in the Capitol Building. It only affects those in the House office buildings.

I also remind Members that there are already elevators set aside for Members only to use, the speed of which remains the same no matter who pushes the button.

In closing, I will again remind all assembled here that our Federal Government is broke. We are nearly $5 trillion in debt. At a time when we are asking Americans to tighten the belt and make do with less, surely this body can make do without elevator operators.

My colleagues, the time has come for us to begin pushing our own buttons.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. CHRISTENSEN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate my friend yielding, and I know he is into sacrifice.

Am I correct that the gentleman's office is on the first floor of the Longworth?

Mr. CHRISTENSEN. The gentleman is correct. I am on 1020 Longworth.

Mr. HOYER. Am I correct that the gentleman does not need an elevator, therefore, because he is at street level? He just walks right out?

Mr. CHRISTENSEN. Reclaiming my time from my friend from Maryland, it is correct that I am on 1020 Longworth, but the issue is not whether I am on the first floor or the seventh floor or in Rayburn or in Cannon.

Mr. HOYER. You want to give it up for the rest of us.

Mr. CHRISTENSEN. The issue is that it is time for us to push our own automatic elevator buttons.

Mr. HOYER. I understand.

□ 1345

Mr. CHRISTENSEN. Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself 1 minute.

Virtually every Member that does work in the Longworth Building would not want to have the elevators made more inconvenient. There has never been a time on the floor of this House when the whole issue of being able to get here to vote on time is more graphic than it was yesterday and today.

And to even consider making it more difficult for our Members to meet the time frame of getting here to vote by virtue of eliminating elevator operators, that only operate for Members at least during the time that we have a vote call, this would not be the right time.

We have not asked for a study. We have simply asked the chief administrative officer of the entire House of Representatives, to review the process of elevators and elevator operators and give us a recommendation as to how it can be improved. That is not going to be a long study and expensive study. We expect that to come back to us. We will readdress this issue at the appropriate time in the future.

Mr. PACKARD. I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I am very disappointed in the gentleman from Nebraska [Mr. CHRISTENSEN]. We have already cut the elevator operators from 150 a few years ago down to 22. The gentleman is not giving us any credit for that.

And I might say for the elevator operators, these are good people. They have families. They are working. And what are we doing in the U.S. Congress? I thought we were going to put our emphasis on finding ways to build self-esteem and self-worth. We cannot all be chiefs; we need a lot of Indians. And we all do different things to get the job done and accomplish the mission.

Let us give our elevator operators a break. I do not see the gentleman from Texas putting a cap on these people

making $10 million or more, yet we want to single out the elevator operators who give information, they give advice, they give directions, and they are trying to make a difference.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, this is not a new issue. It is an issue that is easy to make fun of. The American public hears you have got push-button elevators. What do you need an operator for? Like all the elevators around the country, they are run by computers and the computers cannot tell, they are not as sophisticated as human beings still.

And human beings, as the chairman has pointed out, can make a difference, can make judgments, can make sure that people get up and down the 7 floors of the Longworth Building or the 6 floors or the 5 floors of the Cannon and Rayburn Buildings so that Members can get to the floor on time.

We have just had a substantial incident where a number of Members were late getting to the floor. We had a big confrontation about that and the Speaker told us, voting in a timely fashion is important. We want to limit it to 17 minutes. This facilitates that at a relatively small cost. Why? Because the computers cannot tell as well as human beings can how to accommodate the 15-minute voting patterns.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I have, with all due respect, seen a lot of bonehead amendments in the years that I have been here, but this one ranks up at top.

The elevator operators on the House side work very hard. They are scared to death about this. They are scared to death about losing their jobs. And, frankly, we need them. Those of us who are in the Longworth Building, many times we run down the steps because the elevators are so difficult to get in that building. Without the elevator operators, we would probably miss half the votes.

So, I can think of nothing more that is so silly. The savings is next to nothing. All it is doing is making a lot of loyal government employees, who work hard and are not paid much, frightened to death and making it impossible for Members to vote in a timely fashion.

If there was ever a vote that did not make sense on the merits, this is it. It does not make sense from a monetary point of view. It saves us nothing. It does not make sense from an efficiency point of view.

I very, very strongly urge my colleagues on both sides of the aisle to defeat this amendment. It may play great with the folks back home, saying we have cut out fat. This is not fat. This is necessary. I urge defeat of this amendment.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself such time as I may consume. For any Member to suggest that they are going to miss votes because they cannot push their own button, but they need an elevator operator to push the button, is ludicrous. What is this country coming to when you cannot push your own automatic elevator button?

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

The CHAIRMAN. The gentleman from California [Mr. PACKARD] has 1 minute remaining and has the right to close.

Mr. PACKARD. Mr. Chairman, I reserve the balance of my time.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would urge support of my amendment and I guess it would just be the fact that it is not about the families, because they are good people. They are very good people. But when you downsize, you have to make some cutbacks and some people have to find other work. So, I would urge support of my amendment.

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

Mr. PACKARD. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, the gentleman from Nebraska [Mr. CHRISTENSEN] is mistaken. This is not a tough vote at all. It is not tough to cut out jobs; to inconvenience the Members when we have only 17-minutes to get to a vote. It is a cheap-shot vote. It is a bad vote. It is not a tough vote.

The elevator operators here control the traffic and the flow of the crowd during the times of votes. It is very important that they do that. I would urge the Members to vote down this amendment.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

In writing this bill we have not approached it to save jobs, per se. We have tried to streamline and improve the operation of Government. And the time will come when we will reevaluate the operators after we have upgraded the elevators and made them work better for the Members. But for the time being, this is not the time to make it more difficult for the Members and to eliminate the elevator operators in this amendment. I urge a strong no vote on this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska [Mr. CHRISTENSEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHRISTENSEN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Nebraska [Mr. CHRISTENSEN] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. ZIMMER: Page 49, after line 25, insert the following new section:

SEC. 312. Any amount appropriated in this Act for ''HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances'' shall be available only for fiscal year 1996. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. ZIMMER] and a Member opposed will each be recognized for 5 minutes. Does any Member seek time in opposition?

Mr. PACKARD. Mr. Chairman, I seek time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, together with the gentleman from Michigan [Mr. CAMP] and the gentleman from Indiana [Mr. ROEMER], I am proposing an amendment that addresses an issue that has caused great confusion, consternation, and rancor in this House.

Many of us have gone to great lengths not to spend the money that is available for our office expenses because we believe that frugality begins at home. We believe that we cannot credibly ask for major cuts in programs that affect our constituents unless we cut programs that affect us and reduce spending in our own offices.

I have saved more than $500,000 in my 4 years in Congress, and many of my colleagues have save more. But there has been persistent uncertainty about what happens to the money that we do not spend.

This amendment ends that uncertainty by explicitly dedicating the money we save to deficit reduction. Simply put, this amendment gives Members a real incentive to do the right thing.

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

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to speak not so much in opposition as to explain the circumstances. In my opinion, this amendment simply does not do anything that is now not being done through the normal process.

There has been the mistaken idea, and I had that mistaken idea for many years when I first came here, and I think many of my colleagues had the

idea, that there was a slush fund out there that all the extra money that we did not spend in our official expense or our other office expense allowances, clerk hire and so forth, if there were surpluses at end of the year, that money would be turned back to the slush fund that the Speaker or somebody else in the House would control.

That is simply not true. The fact is that when I do not spend money out of my official accounts, it is never withdrawn from the Treasury. It is never spent from the Treasury.

Members need to know that what we do not spend, what is surplus at end of the fiscal year out of our official moneys, and that is for all three accounts, never comes out of the Treasury. That includes the mail account, that includes the official expense account, and that also includes the clerk hire account. What is not spent, there is nothing written out of the Treasury. So there is nothing to return to the Treasury as this amendment would request.

We cannot return to the Treasury money that has never been withdrawn from the Treasury. So in my judgment, this amendment has absolutely no meaning in terms of changing existing policy. It will still remain the same.

With that explanation, I oppose the amendment because I think it simply adds a layer of redundancy.

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

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding time to me.

I am proud to join in cosponsoring the amendment with Mr. ZIMMER. I introduced this bill as H.R. 26 on the first day of Congress. It has 121 cosponsors, Democrats and Republicans. The idea has been endorsed by the National Taxpayers Union, the Citizens Against Government Waste, and the Concord Coalition, because it does address the deficit.

We should vote for this for two reasons, and I strongly disagree with the analysis of the gentleman from California [Mr. PACKARD]. One is because we should lead on deficit reduction. We should take the first step. If American families are tightening their belts, Congress certainly can do the same thing. And voluntarily return money. I voluntarily returned $677,000 over the last 4 years.

Second, in response to the gentleman from California, [Mr. PACKARD], this is a truth-in-budgeting amendment. It is outrageous that somebody could say we need to appropriate less money in the appropriations process and count on the gentleman from Indiana [Mr. ROEMER], or the gentleman from Michigan [Mr. UPTON], or the gentleman from Alabama [Mr. BROWDER], or the gentleman from New Jersey [Mr. ZIMMER] to return money to pay for these other people spending more.

I thank the chairman and the sponsor of the amendment and join proudly in a bipartisan way to urge passage.

Mr. PACKARD. Mr. Chairman, I yield myself 10 seconds.

I, too, at one time introduced a bill to do exactly what the gentleman from Indiana has done, but I was wrong. I simply misunderstood the process, and I now know what the process is. The money never goes out of the Treasury.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

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

Mr. THOMAS. Mr. Chairman, I too, do not rise in opposition or in support of this particular amendment. I would tell the gentleman from Indiana [Mr. ROEMER] he does not return money to the Treasury.

First of all, no money is appropriated for individual offices. There is no appropriation for the 21st District of California, for example. There is no appropriation for Members' offices. There is an appropriation to the House in support of our official duties.

Members draw down on that account. If they do not use all of the money, it means they did not draw down all of their call on that account. They do not return money to the Treasury. Having said that, the gentleman from Indiana [Mr. ROEMER] knows that I have been working with our lawyers and others to try to figure out a way to make this happen. We are talking about even fundamentally changing the way in which we appropriate so that Members who do not draw down their account to the maximum amount available under law, can go back home and say: That amount I did not draw down is designated to go to deficit reduction.

Mr. Chairman, I think that is a positive. That is an incentive and it is probably a better goal than just going back into the Treasury to be churned for other expenditures.

□ 1400

So that is why I am not opposing this measure, but you have got to have an understanding, folks. Your concept of the way this place works in flat-out wrong.

What we need to do is to make sure that what you are talking about, in fact, becomes reality, and I pledge my support to continue to work on this.

And the reason I am not opposing the gentleman from New Jersey is because if, in fact, it is possible, within the context of this appropriations bill, to make some determinations without having to go to statute, at least, he says, it is to go to deficit reduction instead of the general treasury. That is a modest step forward, if we can make it happen.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I thank the gentleman from New Jersey for yielding me this time.

I join him in urging support of this amendment, as well as the gentleman from Indiana.

I agree with much of what the gentleman from California said. He is correct in that these funds are not office- or district-specific. However, the fact is if all of the offices collectively do not use the appropriated amount, these funds can be reprogrammed.

In the past, I would submit that that has occurred in this House, and what this amendment would do is it would change that procedure so those leftover funds are not reprogrammed.

In the beginning of this session, during the debate on the rules package, I came to the floor and requested that we have an independent audit of House operations to include an examination of where these funds go, because it has been blurred and made difficult for us to find this out.

So I would urge support of the amendment.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

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

Mr. BENTSEN. Mr. Chairman, I would first like to thank the sponsor of this amendment, the gentleman from New Jersey [Mr. ZIMMER], and also the author of H.R. 26, the gentleman from Indiana [Mr. ROEMER], for allowing me to speak on this important issue.

Mr. Chairman, I rise in strong support of the Zimmer amendment.

As a new Member of Congress, I have discovered there are few clear choices when it comes to balancing the Federal budget. This amendment is a simple, commonsense proposition for Members of the House to claim they support this goal. Each year many Representatives have money left over in their office budgets. This money goes back to the general House fund for use on other projects.

The Zimmer amendment would require Representatives to apply all excess funds from their office budgets each year to the Federal debt. In essence, Members of Congress would be making their contribution to the ultimate goal of balancing the budget, a goal which many of us support.

I ask Members who came to Congress as a result of the 1994 elections to carefully consider this amendment. The American people sent us here to reduce the deficit and change the way Congress does its business. The Zimmer amendment accomplishes both goals.

Mr. ZIMMER. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, this is a familiar fight for the gentleman from New Jersey [Mr. ZIMMER], the gentleman from Indiana [Mr. ROEMER], and other people in my class because we actually began it back in 1990.

I understand the point of the chairman of the Appropriations Committee, the gentleman from California [Mr. PACKARD], that it is certainly not the intention, his intention, nor the intention of his colleagues to turn around and reprogram money.

It seems to me if there is a question or if there is essentially some sense of indecision about whether or not this is binding, then we should clearly err on the side of deficit reduction. Let us remove any sense of temptation that presently exists for the Committee on Appropriations to reprogram any of this money. Let us settle it once and for all.

Like my colleague, the gentleman from Indiana [Mr. ROEMER], I have worked very hard in my office to hold down expenses and have had the lingering suspicion over the least 4 years much of the money I saved somehow gets spent someplace else.

Let us say to the Members of Congress, if you are careful enough to hold down travel and careful enough to hold down salaries of your staff and careful enough to watch the kind of monies spent throughout your House operations, then at the very least all the incentives should be in place to save money rather than spend it.

I strongly support the Zimmer amendment.

Mr. PACKARD. Mr. Chairman, I yield 15 seconds to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, and Members, I, too, join in the opposition to this amendment. I really think, after listening to the dialogue here, that the problem could be corrected by allowing Members to put out a press release saying that they returned money to the Treasury.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in my concluding remarks, I want to simply remind Members that we went to special efforts to give Members credit for not spending all of their funds. The report provides that there will be a letter that would indicate that they have not spent all of their funds; they can use it for whatever purpose that they wish.

Any amount left in the appropriations account, in this account, remains in the treasury. It is never spent out of the treasury and thus it is available for deficit reduction.

The absolute intent of this amendment is being realized in the existing process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ZIMMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER] will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 8, offered by the gentleman from Utah [Mr. ORTON]; amendment No. 9, offered by the gentleman from Wisconsin [Mr. KLUG]; amendment No. 10, offered by the gentleman from Nebraska [Mr. CHRISTENSEN]; and amendment No. 11, offered by the gentleman from New Jersey [Mr. ZIMMER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

AMENDMENT OFFERED BY MR. ORTON

The CHAIRMAN. The pending business is the demand of the gentleman from Utah [Mr. ORTON] a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

RECORDED VOTE

The CHAIRMAN. Those in support of the demand for a recorded vote will rise and be counted. The Chair will count all Members standing in support of the request for a recorded vote.

This is the amendment offered by the gentleman from Utah [Mr. ORTON].

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Chairman, can the Chair advise us as to how the vote turned out on the voice vote?

The CHAIRMAN. The Chair said in the reading of the announcement that the noes prevailed by a voice vote.

Mr. HOYER. I thank the Chair.

The CHAIRMAN. A recorded vote has not yet been ordered.

The pending business before the committee is a request for a recorded vote.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Chairman, I understand this is not necessarily a parliamentary inquiry. Was it the amendment offered by the gentleman from Utah [Mr. ORTON]?

The CHAIRMAN. Yes, by the gentleman from Utah [Mr. ORTON].

EXPRESSING CONCERN ON VOTING PROCEDURE

Mr. HOYER. Mr. Chairman, I ask unanimous consent to speak out of order for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. HOYER. The concern I have, I would say to the acting ranking member and the chairman, is that if one of our colleagues requested a vote and expected that vote to occur and is now off the floor, I think it would be somewhat unfair of us not to—here is the gentleman from Utah [Mr. ORTON].

Mr. Chairman, I yield back the balance of my time. I know my colleagues were glad to hear from me.

The CHAIRMAN. Any Member may make a point of order that a quorum is not present.

Mr. ORTON. Mr. Chairman, I demand a recorded vote on my amendment. Pending that, I make a point of order a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. ORTON. Mr. Chairman, I will withdraw the point of order and demand a recorded vote.

The CHAIRMAN. The Chair will count for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 321, not voting 9, as follows:

[Roll No. 412]

AYES—104

Abercrombie
Andrews
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bishop
Borski
Brewster
Browder
Brown (FL)
Cardin
Clyburn
Condit
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Doyle
Duncan
Engel
Eshoo
Farr
Fattah
Fields (LA)
Foglietta
Frank (MA)
Furse
Geren
Gordon
Hayes
Hefner
Hilliard
Holden
Houghton
Hoyer
Jacobs
Johnson (SD)
Johnson, E. B.
Kanjorski
Kasich
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lewis (GA)
Lincoln
Lofgren
Luther
Maloney
Markey
Mascara
McHale
McKinney
McNulty
Meehan
Mfume
Minge
Montgomery
Nadler
Oberstar
Orton
Owens
Pastor
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Rahall
Reed
Richardson
Rose
Sabo
Sawyer
Schroeder
Shays
Sisisky
Skelton
Slaughter
Stenholm
Tanner
Tauzin
Taylor (MS)
Thornton
Thurman
Towns
Vento
Visclosky
Volkmer
Waldholtz
Watt (NC)
Watts (OK)
Waxman
Weller
Williams
Wyden
Wynn
Yates
Zimmer

NOES—321

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake

Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Manton
Manzullo
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Peterson (FL)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Regula
Reynolds
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Tucker
Upton
Velazquez
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Ackerman
Clayton
Laughlin
Moakley
Parker
Scarborough
Schumer
Serrano
Torres

☐ 1430

Mr. WISE and Mr. MARTINEZ changed their vote from ''aye'' to ''no.''

Ms. ESHOO, Messrs. PAYNE of Virginia, BAESLER, FARR, NADLER, LEWIS of Georgia, MFUME, FOGLIETTA, CRAMER, TAYLOR of Mississippi, OBERSTAR, KLECZKA, MASCARA, SHAYS, and TOWNS, Ms. LOFGREN, and Messrs. BORSKI, TAUZIN, BACHUS, GORDON, MARKEY, SKELTON, RICHARDSON, and LUTHER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RICHARDSON. Mr. Speaker, I was unavoidably detained on rollcall vote 412. Had I been present, I would have voted ''nay.''

☐ 1430

AMENDMENT OFFERED BY MR. KLUG

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin [Mr. KLUG] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 293, noes 129, not voting 12, as follows:

[Roll No. 413]

AYES—293

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wyden
Young (FL)
Zeliff
Zimmer

NOES—129

Abercrombie
Baesler
Bateman
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Davis
DeLauro
Dellums
Dicks
Dingell
Dixon
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lowey
Manton
Martinez
Matsui
McDermott
McHale
McKinney
Meek
Mfume
Mineta
Mink
Mollohan
Moran
Morella
Murtha
Myers
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Quillen
Rahall
Rangel
Reynolds
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—12

Ackerman
Clayton
Condit
Dornan
Laughlin
McDade
Moakley
Parker
Schumer
Serrano
Tate
Torres

The Clerk announced the following pair:

On this vote:

Mr. Cunningham for, with Mr. Moakley against.

Messrs. BERMAN, TEJEDA, and GUTIERREZ changed their vote from ''aye'' to ''no.''

Messrs. DEUTSCH, EHLERS, and EVERETT changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces again that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. CHRISTENSEN

The CHAIRMAN. The pending business is the demand of gentleman from Nebraska [Mr. CHRISTENSEN] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 246, not voting 11, as follows:

[Roll No. 414]

AYES—177

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bilbray
Bliley
Blute
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Deal
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Dreier
Duncan
Dunn
English
Ensign
Fawell
Fields (TX)
Flanagan
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Goodlatte
Gordon
Goss
Graham
Green
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson (CT)
Johnson (SD)
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kingston
Klug
LaHood
Largent
Latham
Lazio
Leach
Lewis (KY)
Lincoln
LoBiondo
Longley
Luther
Manzullo
Martini
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Mica
Miller (FL)
Minge
Moorhead
Myrick
Nethercutt
Neumann
Norwood
Nussle
Paxon
Petri
Pomeroy
Portman
Pryce
Quinn
Ramstad
Reed
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tanner
Tate
Taylor (NC)
Thornberry
Tiahrt
Torkildsen
Upton
Waldholtz
Wamp
Ward
Weller
White
Whitfield
Zeliff
Zimmer

NOES—246

Abercrombie
Andrews
Baesler
Barcia
Barr
Barrett (NE)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Burton
Callahan
Calvert
Chambliss
Chapman
Clay
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Dicks
Dingell
Dixon
Doolittle
Doyle
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lantos
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Poshard
Quillen
Radanovich
Rahall
Rangel
Regula
Reynolds
Richardson
Riggs
Roberts
Rogers
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Ackerman
Clayton
Clement
Cunningham
Dornan
Greenwood
Laughlin
Moakley
Parker
Serrano
Torres

□ 1447

Mr. HUNTER changed his vote from ''no'' to ''aye.''

Mr. BROWDER changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Chairman, on roll call vote No. 414, I was unavoidably detained with business before the U.S. Senate regarding Dr. Henry Foster's nomination. Had I been present, I would have voted ''nay'' on the amendment offered by Representative JON CHRISTENSEN.

AMENDMENT OFFERED BY MR. ZIMMER

The CHAIRMAN. The pending business is the demand of the gentleman from New Jersey [Mr. ZIMMER] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 21, not voting 10, as follows:

[Roll No. 415]

AYES—403

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—21

Abercrombie
Clay
Collins (MI)
Conyers
Dellums
Dingell
Dixon
Fazio
Gibbons
Hastings (FL)
Hoyer
Lewis (GA)
Meek
Moran
Nadler
Packard
Sabo
Stokes
Thornton
Towns
Waters

NOT VOTING—10

Ackerman
Clayton
Ewing
Johnson (CT)
Laughlin
Livingston
Moakley
Parker
Serrano
Torres

☐ 1455

Ms. MCKINNEY and Mr. GEJDENSON changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. PORTMAN. Mr. Chairman, I rise today to voice my support for H.R. 1854, the legislative branch appropriations bill for fiscal year 1996.

I strongly support the bold cuts to the level of funding provided in the bill today.

There is nothing more important than addressing the $4.8 trillion national debt, which is keeping badly needed capital out of the hands of the private sector of our economy, the engine of growth and job creation. And I believe the goal of deficit reduction will only be met if we lead by example here in Congress.

Today, we have the opportunity to prove to our constituents that we are serious about addressing the national debt by taking the lead and making cuts to our own budget. This bill appropriates $1.7 billion for the House of Representatives and other legislative branch operations—$155 million less than in fiscal year 1995. This bill contains responsible cuts, such as eliminating the Joint Committee on Printing [JCP], the Office of Technology Assessment [OTA], one House parking lot, complimentary Capitol Historical Society calendars, and volumes of the U.S. Code for members of Congress. This bill provides for privatizing the flag office, the House folding room, and other support offices, reducing the General Accounting Office budget by 15 percent, combining the allowances for Members' clerk hire, mailing and office expenses into one account and cutting House committee funding by $39 million.

At a time when the House is asking others to make significant sacrifices, we must be responsible enough to tighten our own belt. I will vote for the legislative branch appropriations bill because the House should lead by example rather than give itself special treatment.

Mr. CLINGER. Mr. Chairman, I rise today in support of H.R. 1854, legislative branch appropriations for fiscal year 1996. I also rise to applaud the efforts of the subcommittee chairman, Congressman RON PACKARD, for performing a superior job in crafting this difficult bill, making truly difficult decisions, and helping ensure that the legislative branch contributes its share to the Nation's total debt reduction.

I am particularly pleased with the committee's successful efforts to find meaningful and constructive reductions in the General Accounting Office account.

H.R. 1854 appropriates $393 million for the General Accounting Office. That is $56 million, or 12 percent, less than the fiscal year 1995 appropriation, and $80 million less than the amount requested by GAO. The bill's appropriation level will support 3,947 positions, a 15-percent cut from current staffing levels. This cut is the first of a 2-year reduction in GAO's budget, which will reach a total of about 25 percent over 2 years. If this budget is adopted, GAO will have downsized by a total of 35 percent between 1992 and 1997.

No agency can sustain this level of a reduction without seriously reevaluating the work that it performs. I am confident that Comptroller General Chuck Bowsher, Appropriations Subcommittee Chairman RON PACKARD, and I will work hard to ensure that GAO takes responsible steps to absorb these reductions while still providing useful research and assistance to the Congress.

The committee report that accompanies this bill calls on GAO to fully accomplish its core mission while absorbing the reductions in their budget both this year and next. As the chairman of GAO's authorizing committee, it is my intention over the coming months to work with the GAO staff to ensure that the mission of GAO is achieved. In my mind, some of the most important functions of the GAO is to perform financial management and performance audits. The enactment of the Chief Financial Officers Act placed a great burden on the shoulders of GAO to help executive branch agencies design and publish annual financial reports. Also, the development of a District of Columbia financial control board will also result in a strain on GAO's resources. They should continue their hard work in these areas.

At the same time, GAO should continue to support the activities of congressional committees. I am confident that they will continue to do just that in the same professional manner that we have seen in the past. GAO has performed yeomen's service for the Government Reform and Oversight Committee during the past several months and I look forward to continuing that relationship with them.

Again, I applaud the efforts of Chairman PACKARD and encourage the adoption of this bill.

Mr. PORTMAN. Mr. Chairman, I rise today to offer the Clinger-Portman-Condit-Davis amendment to the legislative branch appropriations bill. Our amendment is fiscally responsible and is vital to the mission of the Unfunded Mandates Reform Act of 1995. In fact, our amendment is endorsed by many of the same groups that supported the unfunded mandates bill earlier this year, including the U.S. Chamber of Commerce, National Governors' Association, National Conference of State Legislatures, National Association of Counties, and the National League of Cities. The amendment would add $1.1 million to CBO's budget, the funding it needs to comply with S. 1, the unfunded mandates bill that was signed into law in March. As you know, the House approved this Contract With America bill by a strong vote of 394–28, and the Senate did as well, 91–9.

The amendment's appropriation of $1.1 million to the CBO is far below the $4.5 million the House authorized earlier this year in S. 1. In fact, it is only 26 percent of the amount we've already authorized for CBO by the unfunded mandates law.

As you may remember, under the unfunded mandates bill, CBO has a number of critical and new responsibilities starting January 1, 1996. First, CBO is required to analyze all new reported legislation containing Federal mandates and to prepare cost estimates for bills that impose mandates on State and local governments costing more than $50 million in any year. CBO has to perform a similar analysis for bills that impose mandates on the private sector costing more than $100 million. Although CBO does analyze intergovernmental mandates costing more than $200 million now, the new law has greatly increased its workload. These are complicated analyses, requiring CBO to perform a number of complex new tasks.

CBO has identified a number of new challenges it will be facing as it calculates the costs of mandates. Specifically, Dr. June O'Neill, Director of the CBO, has identified that: First, legislation often lacks the detailed information needed to project future impacts at the time a bill is considered; second, the effects of legislation may vary greatly among localities, making it difficult to quantify nationwide costs; third, obtaining accurate information from State, local, and tribal officials will be difficult and time consuming; fourth, obtaining information from private-sector parties will be difficult and time consuming since the information may not be readily available and is often considered to be confidential.

To make accurate cost estimates, CBO needs these additional resources to address these problems. Specifically, these resources will need to be focused on covering the costs of: First, consulting extensively with the relevant Federal agency to define the range of alternatives that are likely to be considered in issuing regulations; second, collecting information early in the legislative process from a broad sample of State, localities, and tribes, as well as from the private sector and individuals; third, consulting with experts to identify techniques that will improve CBO's ability to provide accurate estimates of nationwide costs based on a limited sample of States, localities, tribes, businesses, and individuals; fourth, consulting directly with as many States, local, and tribal officials as possible, as well as representatives from business and citizen groups.

CBO estimates that it needs 25 new full-time employees to conduct the cost analyses required by the unfunded mandates bill. The office intends to create a new intergovernmental mandate unit in the Budget Analysis Division that will prepare cost statements and studies of intergovernmental mandates, as well as work with committees and State and local governments—15 people would be assigned to the program divisions for preparing private-sector mandate cost estimates and studies.

In addition to new analytic difficulties, the quantity of estimates required by CBO will likely be burdensome. Dr. O'Neill estimates that the private sector analyses—a provision in the law that is strongly supported by many Members of Congress—alone could require CBO to analyze approximately 10 to 15 percent of all reported bills. I expect the number of analyses required for State and local governmental mandates will be even higher. The bottom line is that S. 1 increased significantly CBO's volume of work.

CBO has identified another issue that justifies this additional appropriation to its budget. In the case of both intergovernmental and private sector mandates, CBO has determined that it will take nearly as much analysis to estimate whether or not a bill exceeds the threshold as it does to provide a full cost analysis when the threshold is exceeded. A statement by Dr. O'Neill reinforces this point: ". . . all bills that are deemed to have a mandate will exert considerable pressure on CBO's resources, even when the analysis does not result in a detailed cost statement."

If CBO fails to complete these analyses, the consequences to the legislative process could be severe. Because the unfunded mandates law establishes a new point of order against the consideration of legislation for which a CBO cost estimate is not printed in the committee report or in the CONGRESSIONAL RECORD, points of order could potentially be raised against scores of bills. This could significantly complicate and slow down the legislative process.

In addition, a provision in the bill allows for a waiver of CBO's requirement if an analysis is not feasible, although a point of order would remain in effect. Without the CBO analysis, the unfunded mandates law would be meaningless. I view the new cost information as the linchpin to the improved accountability the legislation is intended to establish. Without the CBO analysis, Members would be voting on legislation in the dark, without any clear knowledge of the burdens they are imposing on State and local governments or the private sector. Those 394 Members of the House agreed that we should end the practice of mandating blindly. Providing CBO the tools it needs will help to eliminate this problem, by giving Members the information we all must have to legislate responsibly. Also, because S. 1 obligates committees to identify sources of funding to cover the costs of intergovernmental mandates, committees will need the CBO information to do their jobs. Last year alone, it is estimated that we sent billions of dollars worth of mandates to State and local governments. Spending $1.1 million up front to curb the practice makes sense. To do otherwise would be penny-wise and pound-foolish.

I understand that the Appropriations Committee expresses concerns about the additional duties given to CBO by the unfunded mandates law, but it suggested that DBO shift its resources to cover the new responsibilities. Having talked to CBO and looked at these new responsibilities, I believe that a mere shifting of CBO priorities will not free up enough money to cover the costs of these analyses. We should not place an unfunded mandate on the very agency helping us to end this practice.

This amendment is a modest and responsible request for funding that CBO needs. The $1.1 million is fully paid for by offsetting cuts in the legislative branch appropriations bill. The offset is to a part of the Library of Congress budget, specifically targeted to eliminate funding for the American Folklife Center, which was not authorized. We believe this is a reasonable cut. The Appropriations Committee report on this item cites that "there is ample precedence for the Library to raise private funding for the American Folklife Center."

I urge my colleagues to join me in supporting this amendment. It will allow for the successful implementation of the unfunded mandates bill. CBO analyses of mandates on State and local governments, as well as the private sector, are the heart of the unfunded mandates bill—a law that is designed to ensure Congress has cost information, has a separate debate on whether and how to fund mandates and is accountable before it ever mandates again. Without providing the additional appropriation, we will also be sending the message that we are not serious about giving our State and local partners the relief they need. Let's keep our promise and support this amendment. If you supported the Unfunded Mandate Reform Act of 1995 and believe in it, you should vote "yes" on this amendment.

Mr. LUTHER. Mr. Chairman, I rise in strong support of Mr. CASTLE's proposal to cut our official mail allowances by $4.6 million. I ran for Congress with the promise that I would work to reform the franked mail system, and I intend to vote accordingly.

Consider these facts: First, Members of Congress sent about 267 million pieces of mail in 1994, that's six times more mail than was received; second, during the last election cycle, House incumbents spent more on franked mail than House challengers raised; and third, spending on franked mail doubles in election years.

I do believe that it is important for Members to keep in touch with their constituents. Members of Congress must make the attempt to listen and seek the input of constituents on important pending issues. I also believe that it is important for Members to let their constituents know about town meetings, listening sessions, and other opportunities to contact their Members of Congress. However, I do not believe that Members should be using the franked mail as a campaign advantage. A limited frank budget will result in responsible communications from Members to their constituents.

The Castle proposal freezes the franking allowance at 1994 levels by cutting $4.6 million from Members' representational allowances. That represents a reduction of 13 percent in addition to the roughly 30-percent cut of earlier this year.

The Castle proposal enjoys bipartisan support.

Those Members who are firmly committed to reforming Congress and reducing the budget deficit will vote ''yes'' on this proposal.

The CHAIRMAN. Under this rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CAMP) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution 169, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA WITH INSTRUCTIONS

Mr. MILLER of California. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill in its present form?

Mr. MILLER of California. I am, Mr. Speaker.

Mr. PACKARD. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLER of California moves to recommit the bill H.R. 1854 to the Committee on Appropriations with instructions to report the same to the House forthwith with the following amendment:

Page 49, after line 25, insert the following new section:

SEC. 312. None of the funds made available in this Act may be provided for any Member, officer, or employee of the House of Representatives when it is made known to the Federal entity or official to which the funds are made available that such Member, officer, or employee has accepted a gift, knowing that such gift is provided directly or indirectly by a paid lobbyist, a lobbyist firm, or an agent of a foreign principal.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] is recognized for 5 minutes in support of his motion to recommit.

□ 1500

Mr. MILLER of California. Mr. Speaker, the purpose of this motion to recommit is to send this bill back to committee with instructions for the purposes of reporting the bill back to the floor with a gift ban, to make sure we would finally end the practice of gifts from lobbyists, lobbying firms, and others involved in legislation, to Members of Congress.

We have amended the rules of this House extensively, and we have done it on three different occasions. Each time we have been denied the opportunity to offer an amendment to end the practice of gifts by lobbyists to Members of Congress.

This is an effort to do that through the legislative appropriations bill by denying those appropriations to those offices where Members have continued to accept gifts which they knowingly have been provided, directly or indirectly, by a paid lobbyist or a lobbying firm.

Mr. Speaker, I would hope Members of this House, on a bipartisan basis, would vote to support the recommittal motion, so once and for all we can put an end to a practice that is unacceptable to the public, it is unacceptable in the conduct of the public's business, and it should be unacceptable in this House. That is ending the giving of gifts by lobbyists and lobbying firms to Members of this House while they have legislation under consideration.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it was very thoughtful of the Committee on Rules to put some of the really critical issues of the Nation before us in the amendments that they permitted us to consider. We got to consider flowers, we got to consider whether there would be elevator operators, we got to consider a number of other matters of similar import, and yet, on the critical issue of whether the ties that bind legislators to gifts would be approved, we were denied the opportunity to even present it for a vote on the floor of this Congress. Mr. Speaker, that goes to the core of the problem in this Congress of business as usual.

Mr. Speaker, there is a need for us to be able to present the American people with a clear choice of whether we are going to end gifts, freebies, free trips, or we are not going to end them. This motion is one way to do that. It is an up-or-down vote. If Members believe in continuing the gifts, if they believe in continuing the freebies, then vote against the motion of the gentleman from California [Mr. MILLER].

However, if Members think we ought to do something to clean up this House, this is the opportunity to do it. Some of us have taken a voluntary gift ban agreement and have signed off, and we return these gifts and these freebies, and deny these tickets and special benefits. However, this is a way to write it into law. That is the whole purpose of this amendment.

Mr. WARD. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Kentucky.

Mr. WARD. Mr. Speaker, do Members know what is so frustrating? What is so frustrating is to hear these cries of ''vote,'' when they are not saying vote on a gift ban, are they? They are not going to allow us a vote on a gift ban. We have asked again and again and again.

If we are going to reform this Congress, let us have an up-or-down vote on a gift ban. That is all we are asking for today.

Mr. MILLER of California. Mr. Speaker, finally, I would just say we have considered many amendments to this legislation. Many of those amendments have been about how we conduct our offices and how we pay for those offices and how we approach and hold ourselves out to the public.

However, what we did not consider in this legislation was the question of gift giving by lobbyists to Members of this legislative body. It is a practice that must be ended. The leadership on that side had said they are going to end it. The question is when, because every time we have an opportunity to do it within the rules of the House, somehow we cannot find the will to do it.

Mr. Speaker, this is a practice that must end. It must end now. If Members support the motion to recommit, it can be done away with today. I would urge all the Members to support the motion to recommit.

POINT OF ORDER

The SPEAKER pro tempore (Mr. CAMP). Does the gentleman from California [Mr. PACKARD] have a point of order?

Mr. PACKARD. Mr. Speaker, I wish to make a point of order against the motion to recommit with instructions because it includes a limitation and is not in order under clause 2 of rule XXI. Under the precedents of the House, it is not ''competent'' for the House to amend the bill in the manner proposed because it is not in order for the House to instruct the Committee to do what the House itself could not do.

Mr. Speaker, I quote from precedents of the House of Representatives: ''It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment.''

Also, Mr. Speaker, a point of order was sustained on a motion, a very like motion, to recommit with instructions on August 1, 1989, under a different Speaker. Mr. Speaker, the gentleman's motion to instruct includes a limitation not specifically contained or authorized in existing law, and not considered in the Committee of the Whole pursuant to clause 2(d) of rule XXI, and therefore I ask for a ruling by the Chair on the point of order.

The SPEAKER pro tempore. Does the gentleman from California [Mr. MILLER] wish to address the point of order?

Mr. MILLER of California. Mr. Speaker, the language offered in this motion to recommit is in fact valid under the House rules. It is constructed to meet all requirements for a valid

limitation under clause 2 of rule XXI. It does not impose ''substantial additional duties.''

While it is true such an amendment could have been blocked under section (d) of clause 2 by the motion to rise had such a motion been offered in the Committee of the Whole, in fact no such motion was offered. The Committee rose under the direct terms of the rule, House Resolution 169, rather than as a result of the motion of the majority leader or the manager.

The House rules clearly permit a valid limitation to be offered when the manager or the majority chooses not to offer the motion to rise or if they fail to do so in a timely fashion. For this reason, a motion to recommit with instruction to include a simple valid limitation is in fact in order, and therefore the motion to recommit requiring a gift ban be reported back to the House is in order.

The SPEAKER pro tempore (Mr. CAMP). The Chair is prepared to rule on the point of order. Consistent with the precedents of August 1 and 3, 1989, which are recorded in section 835 of the House Rules and Manual, the point of order is sustained and the motion is held out of order.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I move to recommit the bill, H.R. 1854, to the Committee on Appropriations.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLER of California moves to recommit the bill, H.R. 1854, to the Committee on Appropriations.

Mr. MILLER of California. Mr. Speaker, if I can, I would like to be heard on the motion.

The SPEAKER pro tempore. The motion is not debatable. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit with instructions.

PARLIAMENTARY INQUIRIES

Mr. GEJDENSON. I have a parliamentary inquiry, Mr. Speaker.

Mr. MILLER of California. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will state his parliamentary inquiry.

Mr. MILLER of California. Mr. Speaker, why was that motion not debatable, but the previous motion was debatable?

The SPEAKER pro tempore. The difference is between a motion that includes instructions, which is debatable, and one that does not.

Mr. MILLER of California. I thank the Chair.

Mr. PACKARD. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California will state it.

Mr. PACKARD. Mr. Speaker, I have been told and informed that we expect this final passage vote to be the last vote of the day. Is that correct?

The SPEAKER pro tempore. The Chair would advised the gentleman that the vote is on recommital.

Mr. PACKARD. After final passage, I am talking about, Mr. Speaker.

The SPEAKER pro tempore. The Chair is about to announce a 15 vote on recommital and then a 5——

Mr. PACKARD. After final passage, is that to be the last vote of the day, Mr. Speaker?

The SPEAKER pro tempore. The Chair would tell the gentlemen yes, that is the Chair's understanding.

Mr. OBEY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, would it be in order to point out that if this motion is adopted, the committee would attempt to incorporate the gift ban when it comes back from committee?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

The question is on the motion to recommit.

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

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5(b)(3) of rule XV, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be ordered on passage of the bill.

The vote was taken by electronic device, and there were—ayes 186, noes 240, not voting 8, as follows:

[Roll No 416]

AYES—186

Abercrombie
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—240

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas

Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Ackerman
Clayton
Laughlin
Moakley
Parker
Pomeroy
Serrano
Torres

☐ 1528

Mr. SAXTON changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. DELAY was allowed to proceed out of order.)

Mr. DELAY. Mr. Speaker, I only take this 1 minute to clarify a statement that was made earlier.

Mr. Speaker, we do expect, in fact it is automatic on appropriations bills, a vote on final passage. The other side has assured us, and we are assuring Members that there is no plan to vote on the rule on the Foreign Operations appropriations bill.

Mr. OBEY. Mr. Speaker, will the gentleman yield on that point, because that is no longer correct. Will the gentleman yield for a clarification?

Mr. DELAY. I will be glad to yield to the gentleman from Wisconsin, the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, there are two aspects of the rule which have just come to my attention, which mean that this gentleman at least would be asked for a vote on the rule. I do not know what the wish of the majority is in terms of proceeding, but I do not believe that Members should be given assurances that if the rule is going to be voted on tonight, that there will not be a rollcall vote, because with my new understanding of what the Committee on Rules has done, I intend to ask for a vote on the rule.

☐ 1530

Mr. DELAY. Mr. Speaker, I change my earlier statement. There will be a vote on final passage, a rollcall vote on final passage, and Members should expect a vote on the rule in an hour after that vote is concluded.

The SPEAKER pro tempore (Mr. CAMP). The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 337, nays 87, not voting 10, as follows:

[Roll No. 417]

YEAS—337

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—87

Abercrombie
Andrews
Becerra
Bevill
Bishop
Bonior
Browder
Brown (CA)
Bryant (TX)
Chapman
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
Dellums
Dingell
Durbin
Engel
Fattah
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gibbons
Gordon
Green
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnston
Kanjorski
Klink
LaFalce
Lewis (GA)
Martinez
McDermott
McKinney
Menendez
Mfume
Miller (CA)
Mineta
Moran
Murtha
Nadler
Neal
Olver
Owens
Pastor
Payne (NJ)
Peterson (FL)
Pickett
Rangel
Reynolds
Roybal-Allard
Rush
Sanders
Sanford
Schroeder
Scott
Slaughter
Stark
Stokes
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Waxman
Wyden
Wynn

NOT VOTING—10

Ackerman
Clayton
Dicks
Houghton
Laughlin
McHugh
Moakley
Parker
Serrano
Torres

☐ 1539

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1854, the bill just passed, and that I may include tabular and extraneous material and charts.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. QUILLEN, from the Committee on Rules, submitted a privileged report (Rept. No. 104–154), on the resolution (H. Res. 171) providing for consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 170 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 170

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2, 5(b), or 6 of rule XXI are waived. Before consideration of any other amendment it shall be in order to consider the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution in the order printed. Each of those amendments may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in part 1 of the report are waived. After disposition of the amendments printed in part 1 of the report, the provisions of the bill as then perfected shall be considered as original text. Points of order against amendments printed in part of the report under clause 2 of rule XXI are waived. An amendment printed in part 2 of the report shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. GOSS asked and was given permission to include extraneous material in the RECORD.)

PERMISSION FOR MEMBER TO OFFER AMENDMENTS IN MODIFIED FORM

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. HALL] be permitted to offer either of his amendments numbered 1 or 2 in House Report 104–147 which accompanies House Resolution 170, to the bill H.R. 1868 in the modified form which Representative HALL has placed at the desk.

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

Mr. HALL of Ohio. Mr. Speaker, reserving the right to object, I will not object, but I would like to explain this request.

The unanimous consent will simply correct a technical and clerical error that occurred at the Legislative Counsel's office in the drafting of my amendments, which appear as amendments number 1 and number 2. An incorrect number was picked up from line 14, page 22, of H.R. 1868. As a result, the corrected numbers in the Hall amendment are $2,326,700,000 and $2,300,000,000 respectively. This is a technical error.

□ 1545

It will not change the thrust of the amendments, and I still only intend to offer one of them.

Mr. Speaker, I withdraw my reservation of objection.

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

Mr. OBEY. Mr. Speaker, reserving the right to object, is the technical amendment only in the Hall amendment and no other portion?

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. GOSS. That is the only part of the unanimous-consent request that I have presently on the floor on which the gentleman from Ohio [Mr. HALL] reserved the right to object.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

Mr. GOSS. Mr. Speaker, I am pleased to bring this rule to the floor today. While it is not a remarkable rule, it does share certain qualities with most of the rules of the new majority that we have reported this year.

First, it is open. It has a very limited number of specific waivers, and it is fair to both sides of the aisle.

Specifically, the rule for the foreign operations bill accomplishes several things. First, it is an open rule, allowing any Member to offer an amendment that is in order under the standing rules of the House. In fact, this rule does go a little bit beyond that, allowing for debate on four separate amendments, two Democratic amendments and two Republican amendments, that might not be allowed under a regular rule, might not, I say, because we are not entirely sure of the parliamentary rulings on all of them.

There are only three specific waivers given to the bill for unauthorized appropriations, reappropriations, and for a technical trade provision.

The first two are needed because there has not been a foreign operations authorization bill that has made it into law since 1985, as just about everybody knows. This year the House passed an authorizing bill. We have done our work, and it is worth noting the Committee on Appropriations has worked closely with the Committee on International Relations to ensure this bill is in line with the House-passed authorization.

The last technical waiver I mentioned is required because the bill contains a provision expanding the President's existing authority to impose trade sanctions to Iraq, Serbia, and Montenegro. While this provision is included in the bill for very sound foreign policy reasons, trade issues fall under the primary jurisdiction of the Committee on Ways and Means. Therefore, this section needs a waiver from clause 5(b) of rule XXI.

As in previous rules this year, we have included a preprinting option, I stress the word ''option,'' for priority and recognition.

And, finally, this rule provides for a motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, as we discussed in the Committee on Rules hearing yesterday, it is important for this House to have a full and complete debate over the issue of foreign aid especially over the true amount of tax dollars involved and the policies that drive these expenditures. I am pleased that this rule allows for this debate, and I look forward to it.

This year's foreign aid rule is, in many ways, a tremendous improvement over previous bills. To begin with, it is $1.6 billion below last year's bill and $2.8 billion below the President's requests. Those are significant amounts of money, and, in my view, they are responsible cuts that represent the kind of spending reform that is necessary to achieve the balanced budget we set out to do.

In addition, there is much greater accountability for the funds spent under this bill. Americans have demanded that. And we make these two issues, affordability and accountability, our top priority in any foreign aid bill, and I think we have done that pretty well here.

We are now down to less than 1 percent of the budget for foreign aid, something under $12 billion.

There is one area in which I would like to see even greater accountability, however, and that is aid to the Government of Haiti. The Clinton administration has committed an enormous amount of taxpayers' dollars to Haiti, actually without much explanation or accounting so far. There is an important pair of elections scheduled for this calendar year, elections for Haiti's parliament this weekend and the Presidency in December of this year.

I plan to offer an amendment that will require that before United States dollars are sent to Haiti, those elections be conducted in a democratic and constitutional manner. This will provide greater accountability for the foreign aid dollars that are spent in Haiti and ensure that they are ulitized to enhance democracy and provide a real incentive to Haiti to stay on the road to democracy.

Mr. Speaker, I believe the rule before us today is both fair and open. It was voted out of our committee on a voice vote, and I urge my colleagues to support its adoption.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 20, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	30	73
Modified Closed [3]	49	47	11	27
Closed [4]	9	9	0	0
Totals:	104	100	41	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be pre-printed in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1.	Balanced Budget Amdt.	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, as my colleague has described, House Resolution 170 is essentially an open rule. It provides 1 hour of general debate on the foreign operations appropriation bill for fiscal year 1996.

The rule does provide waivers of clause 2 of rule XXI, to allow unauthorized appropriations provisions in the bill, as well as clause 6 of rule XXI, prohibiting reappropriations in some provisions.

The rule does reflect an agreement between the authorizing committee and the appropriators by making in order two amendments to be offered by the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

The rule also makes in order my children's amendment, which is called the Hall amendment, to transfer $108 million in funds to the new child survival fund and to include basic education activities for millions of poor children overseas.

I want to thank the gentleman from New York [Mr. SOLOMON] and the members of the Republicans and the Democrats on the Committee on Rules for making this in order. I appreciate that.

Other amendments allowed under the rule include one by the gentleman from New Jersey [Mr. SMITH], the gentleman from New Jersey [Mr. MENENDEZ] on Cuba, the gentleman from Florida [Mr. GOSS] on Haiti, and under the normal amending process in the House, any

other amendment which does not violate House rules will be in order under this rule.

So, Mr. Speaker, while I do support this rule, I have some misgivings about the bill as it currently stands. As I indicated during the debate on the American Overseas Interest Act, the international affairs budget represents only 1.3 percent of total Federal spending. It has already been cut by 40 percent since 1985, and under this bill the fund for Africa absorbs a 34-percent cut and another 40 percent is squeezed out of development aid. Funds in these areas go for self-0help, preventive programs which alleviate more money down the road.

Mr. Speaker, I am pleased the Committee on Rules was able to make the Hall amendment, which is my amendment, in order to transfer $108 million in funds to the new child survival and disease programs fund. This fund is created to take care of vital child survival and disease prevention activities that alleviate malnutrition and death among the world's poorest children.

My amendment will also allow basic education programs to be funded through this new children's account.

Disease and malnutrition and basic education are the core of self-sufficiency, and without a renewed emphasis on these kinds of programs, we cannot expect people to raise themselves out of poverty or improve their situations. For each additional year of schooling children from developing countries receive, their incomes rise as much as 10 percent.

My amendment pays for itself by transferring small amounts from other foreign aid programs that can absorb the cuts.

And finally, in the Committee on Rules hearing, the gentleman from Oklahoma [Mr. BREWSTER] did request an amendment know as the deficit reduction lockbox amendment. This would have allowed any savings obtained from floor votes to go into a special deficit reduction trust fund. Given the interest many of us have in deficit reduction, I believe the Committee on Rules should have made the Brewster amendment in order.

My colleague, the gentleman from California [Mr. BEILENSON] did offer the lockbox measure as an amendment to the rule, but, unfortunately, it failed.

I plan to support the rule. I think it is a good rule.

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

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the chairman of the Committee on Rules, formerly of Okeechobee, FL.

Mr. SOLOMON. As a matter of fact, I will be down near there this weekend.

Let me say the two speakers, the gentleman from Florida [Mr. GOSS] and the gentleman from Ohio [Mr. HALL], have accurately described this rule as being fair and open, and it is.

It allows Republicans and Democrats, it allows liberals, conservatives, anybody else, the right to come on this floor and work their will. That is the way it should be. I will not go into that any further.

Let me just say this appropriations bill itself represents yet another installment in our march towards a balancing of the Federal budget. That, to me, means so much. It means that the total appropriation in this bill is almost 20-percent below the administration's request, and more than that, it is almost 12-percent below the appropriated level from fiscal year 1995. And that is the only way that we are ever going to balance the budget. We have to spend less this year than we spent last year, and we have got to continue to do that year in and year out at least for 7 years. I wish it could be sooner.

The truth of the matter is we are following the Ronald Reagan philosophy. He said that instead of giving people fish and foreign aid, we ought to teach them how to fish, and that is exactly what this bill does. Otherwise, we have to keep giving them fish year in and year out. This way, let us teach them how to fish. That is what we are doing in restructuring our foreign aid programs, as well as the domestic programs.

So I commend the sponsors of this legislation on the Committee on Appropriations for a job well done, and I hope that everybody votes for this fair rule and then for the bill itself.

It will be the first appropriations bill on foreign operations that I have ever voted for, and that is because it begins to turn things around and reduce the Federal deficit.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply observe, with respect to the statement by the gentleman from New York, that the foreign aid bills for the last 10 years have reduced the level of foreign assistance. They used to be $18 billion, and in the last decade they have been brought down to $13 billion. So this is not, by any means, the first foreign assistance bill which was lower than the previous year. We have had that occur on a number of occasions during the years that I have chaired that subcommittee.

Let me say that I have opposed the authorization bill because I felt that it represents some of the most incredible micromanagement of foreign assistance in the history of the foreign assistance program, and I think that much of the micromanagement in that bill is idiotic.

But I have been intending to support the appropriation bill because despite the fact that I believe it has a poor allocation of priorities and, despite the reckless manner with which it deals with issues such as NATO and our relationship with the Soviet Union, it does, in fact, not have a lot of the micromanagement that is contained in the authorization bill.

I was informed earlier that it was the intention of the committee not to accept legislative language, save two amendments which everyone understood would be offered, one being the one by the gentleman from Ohio [Mr. HALL] and the other by the gentleman from New Jersey [Mr. SMITH]. The abortion issue is so contentious that we almost always have an issue like that, and that cannot be avoided.

But there are two other legislative amendments which are now being made in order which have, in my view, no business on an appropriation bill which would tie our entire relationship with the Soviet Union to one narrow question of what happens in Cuba, and another amendment which would tie our entire aid relationship to Haiti to legislative language which I have not even yet had an opportunity to review, let alone staff out.

And so, under these circumstances, what I had thought would be a rule which would be a straight appropriation rule bill, in fact, allow for a number of policy issues which, in my view, properly ought to be debated on the authorization bill and not on the appropriations bill. And because of that, and because I believe that the amendment with respect to our relationship with the Soviet Union further adds to the recklessness with which that issue has generally been dealt with by this committee, I am sorry to say that I will have to oppose the rule and will, in fact, oppose the previous question on the rule and would ask that if the previous question is not approved, that the House support an amendment correcting the fact that there are two legislative amendments on this proposal that do not belong here.

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

I would just note in response to the gentleman's comments that one of those amendments was brought forward by a distinguished Member of the gentleman's party, the gentleman from New Jersey [Mr. MENENDEZ], and he was treated very fairly. It was thought to be an important amendment.

And the other amendment, the one about Haiti which was brought forward by myself, actually probably does not need protection, because it is a cutting amendment, a limitation amendment, not a legislating amendment, we are told.

Mr. Speaker, I yield 4 minutes to my colleague, the distinguished gentleman from Florida [Mr. DIAZ-BALART].

□ 1600

Mr. DIAZ-BALART. Mr. Speaker, I thank my distinguished colleague, the gentleman from Florida [Mr. GOSS] for yielding me this time.

I think it is curious that we just heard that the issue that was made in order by virtue of the Menendez amendment having been made in order by the Committee on Rules, and I am going to try to paraphrase, is a narrow issue that will tie our relationship to

the Soviet Union to an incident or a situation in Cuba.

To call a nuclear power plant that is being built 180 miles from the United States, and that is being built of a model that after the reunification of Germany four nuclear power plants which had been built by the Soviets there of that same model were immediately closed down by the Government of Germany because of their lack of safety, to call the national interests of the United States that that kind of nuclear power plant not be completed 180 miles from our shore a narrow interest is quite a curiosity.

That is precisely, however, why the gentleman from New Jersey [Mr. MENENDEZ] came before the Committee on Rules, because of the grave nature of the threat to the U.S. national security that would ensue if this nuclear power plant were completed.

That is why the gentleman from New Jersey [Mr. MENENDEZ] came before the Committee on Rules and asked we make in order, and we did, his amendment which will simply say to Russia that, if they contribute to the completion of that nuclear power plant 180 miles from the United States in Cuba, that the amount that Russia contributes to that nuclear power plant's completion on a dollar-for-dollar basis will be deducted from United States taxpayer assistance to Russia.

Now that is not, Mr. Speaker, I would maintain, nor did the majority of the Committee on Rules maintain, a narrow interest. It is the national security interests of the United States being protected by this Congress in making sure that we make the strongest possible statement to Russia that we will not accept a VVER, a VVER model nuclear power plant being completed a hundred 180 miles from the soil of the United States.

Now in Europe the entire environmental movement is mobilized at this point to close down the other VVER power plants that are still in operation throughout Eastern Europe that the Soviets had constructed, and they are able to close them down. They have been able to close already all of them down in Germany, and they are making substantial progress in closing down the other ones.

This is not a narrow interest. This is something that the gentleman from New Jersey [Mr. MENENDEZ] I think brought forth very correctly, and I think he has to be commended for bringing it forth in this bill as an amendment. He brought it to our attention in the Committee in Rules, and we made it in order, as we made in order the request of the gentleman from Florida [Mr. GOSS] that, if we are going to send taxpayer dollars to Haiti, that they have to have free elections.

Now I think it would be really an extreme absurdity if we were going to continue to send U.S. taxpayer dollars to Haiti if a government there, whatever the government is, proceeds to steal elections.

So that is all we are saying, and it is not a narrow interest. It is something that is in our national interest. It is something that is in our national interest, and that is why, despite the possible, the possible allegations that some points of order could conceivably, and we are not sure, be made with regard to those amendments, the Committee on Rules made them in order.

It is a good rule, Mr. Speaker, and I would ask for my colleagues' support of this fair rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I want to make clear that I agree with both gentlemen on substance; I agree with the previous speaker. I do not want to see that reactor built in Cuba either. I think it is an idiotic, asinine, and stupid thing for the Soviets to do, and I think we ought to do everything possible to stop it.

The question is whether the method chosen by the gentleman is the most effective way to accomplish that end, and I do not believe it is, and that is the simple issue here.

I do not want for one moment for anyone to believe that I do not agree with both gentlemen with respect to their policy positions on either Haiti or with respect to that reactor. I say to them, ''I agree with you on both of them. I do, however, have substantial question about whether or not the method you have chosen to try to accomplish that purpose will do it.''

I, in fact, think it may have the opposite reaction, and that is one reason why I believe that on short order, on the basis of a very brief discussion in the Committee on Rules, this amendment should not have been made in order, because frankly I do not think the Congress at this point knows what it is doing on either one of these subjects.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. DIAZ-BALART] so he may respond to that.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for these 2 minutes. I do not think I will need 2 minutes. I just want to thank the gentleman from Wisconsin [Mr. OBEY] for his support on the substantive issue.

I say to the gentleman, ''If over and above our efforts you have further suggestions, we are more than open to receive your suggestions on how to make sure that those powerplants won't be completed in Cuba and how to make sure that democracy is continued and furthered and protected in Haiti. We happen to believe that this is not only an appropriate vehicle, but a most appropriate vehicle to put maximum pressure on both of these situations with regard to the national interests of the United States, but if over and above these efforts you have additional suggestions, we will be more than open to review them and hopefully work together with you.''

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to point out that the original sponsor of the amendment, the gentleman from New Jersey [Mr. MENENDEZ], is a Democrat, and certainly the gentleman from Florida is a Republican, and so am I. But we all had interest in this because time is critical right now.

As a matter of fact, the truth of the matter is we delayed the markup of this rule in the Committee on Rules in order to go back to the Appropriations Committee, both sides of the aisle, staff on the Democrat side and Republican side, to find out if perhaps there was a better way or perhaps other suggestions. We did change it based on their recommendations.

So we have done everything we could. If the gentleman has a better way, we will consider that, too.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, he keeps indicating that one of the authors of one of the amendments was a Democrat. It is immaterial to me whether it comes from either side, which side of the aisle it comes from. The fact is our committee knows about as much about that subject as the gentleman can put in his left ear. It ought to be handled by the authorizing committee.

Mr. SOLOMON. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] has been around here for 20 years. He is probably one of the most knowledgeable Members on the subject of foreign affairs, and I have praised him to the sky for many years.

Mr. DIAZ-BALART. Mr. Speaker, we do not want these——

The SPEAKER pro tempore (Mr. CAMP). The time of the gentleman from Florida [Mr. DIAZ-BALART] has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. BEILENSON], a very distinguished member of the Committee on Rules.

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

Mr. BEILENSON. Mr. Speaker, I appreciate very much my colleague and friend yielding so much time to me.

Mr. Speaker, I rise in mild opposition to the rule and in strong opposition to the bill that it would make in order, the fiscal 1996 foreign operations appropriations bill.

Mr. Speaker, what is at stake in this bill is nothing less than the future of America's leadership in the world. While we need to cut Federal spending, we ought to be extremely concerned about the potentially disastrous effects the spending cuts in this bill will have on U.S. influence abroad, on our ability to protect our national interests, and on the lives of hundreds of millions of people in the developing world.

The bill cuts foreign aid by $1.6 billion below this year's level, a level that already reflects a vastly reduced foreign aid budget compared to that of, say, 10 years ago when Ronald Reagan was President. In 1985, the United States spent $18.1 billion on foreign aid. This year we are spending just $13.5 billion, a 25 percent reduction, not adjusted for inflation. Adjusted for inflation is closer to 40 to 45 percent.

One of the great myths that has been perpetrated in the media is that the Federal Government spends a significant portion of its budget on foreign aid. Indeed, in a recent study three of four Americans said they believe the United States spends too much on foreign aid. But when asked how much they thought the Nation spends, the median response was 15 percent of the Federal budget. And when respondents were asked how much the United States should spend on foreign aid, the median response was 5 percent, with most agreeing that 3 percent would be too little.

As we all know, U.S. foreign aid is actually less than 1 percent of the Federal budget. In fact, as a percentage of the our gross national product [GNP], the United States is now the lowest aid contributor of the world's top 23 industrialized nations.

For a minuscule fraction of what we spend on defense, the prudent use of foreign aid helps us meet escalating threats to our national and to global security, including chronic poverty, rapid population growth, environmental degradation, forced migration, and in protecting against political instability in countries that cannot adequately take care of their own people. The long-term effect of the cuts in this bill will be a substantial reduction in the President's ability to conduct foreign policy, leaving him, and leaving us, with only a military option in too many circumstances.

Many people do not realize how much our modest investment in foreign assistance programs benefit U.S. businesses and citizens. When the Marshall plan was announced in 1947, only 18 percent of Americans supported that effort to rebuild Europe. But U.S. assistance helped to establish social and political stability, and created some of our best trading partners and, of course, our most staunch political allies. In the 1960's and 1970's, many criticized United States assistance to countries such as South Korea, Taiwan, Mexico, and India. But once again, U.S. assistance ushered in a period of unprecedented growth in those countries. With United States help, for example, India has seen dramatic increases in agricultural production and, as a consequence partially of our foreign aid, a politically stable India now offers a promising and growing market of more than 900 million people for United States goods.

The fastest-growing segment of the U.S. export market is in trade with developing countries. Today developing countries import almost 40 percent of U.S. exports, accounting for at least 2 million U.S. American jobs. In the past decade alone, exports to developing countries have more than doubled from $71 to $180 billion a year.

The United States is today exporting products and services to many of the nations we were giving assistance to in the 1960's and the 1970's. More than 24 countries since that time have moved from being foreign aid recipients to becoming trading partners with us.

Foreign aid has also dramatically improved the lives of hundreds of millions of people and reduced the risk of, and the occurrence of, humanitarian crises. Since 1960, development assistance has helped reduce infant mortality rates in developing countries by 50 percent, has helped increase life expectancy from 46 years to 63 years, has helped increase primary school enrollment from 48 percent to 78 percent. Foreign aid has resulted in important breakthroughs in agriculture; investments made by the United States in better seeds and agriculture techniques has helped make it possible to feed an extra billion people in the developing world.

More than 50 million couples in the developing world use family planning as a direct result of U.S. assistance for overseas family planning services. Over the past 35 years, the average number of children per family in the world has been reduced by one-third, from six children to four.

U.S. aid is largely credited with fully immunizing 80 percent of all children in developing countries, eradicating smallpox worldwide, and virtually eliminating polio in the Western hemisphere.

And, since 1980—in just the past 15 years—U.S. foreign assistance has helped three dozen nations make the transition to democratic governance. The spending reductions in this bill threaten to reverse these positive trends, especially as the number of poor around the world, currently an estimated 1.3 billion people, continues to soar.

One area of particular concern to me in this bill is the nearly 50-percent cut in funding for our efforts to stabilize global population growth, which underlies virtually every developmental, environmental, and national security problem facing the world today.

Global population is now nearly 5.7 billion people, and it is growing by almost 100 million every year—by 260,000 every 24 hours. Future prospects, moreover, are even more staggering. If effective action is not taken in the next few years—as today's 1.6 billion children in the developing world under the age of 15, reach their childbearing years—the earth's population could nearly quadruple to 20 billion people by the end of the coming century.

□ 1615

In much of the developing world, high birth rates caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population control growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. and other international development efforts.

So for these and many other reasons, which will be in my extended remarks, I urge our colleagues to vote against what I believe to be the unwise, counterproductive, and ultimately destructive cuts in our Nation's foreign assistance budget contained in this bill. These programs work. Combating rapid population growth, enhancing maternal health, ensuring child survival, reducing the spread of disease, providing basic education and improving agriculture and sustainable development are some of the most humane, farsighted, and economically effective efforts we can undertake. Maintaining adequate funding for these programs now will save many times its expense in future U.S. foreign assistance, will promote global peace and security, and will promote and protect U.S. foreign policy interests. I urge a ''no'' vote on the rule and the bill.

Mr. Speaker, the impact of exponential population growth, combined with unsustainable patterns of consumption, is also evident in mounting signs of stress on the world's environment. Under conditions of rapid population growth, renewable resources are being used faster than they can be replaced. Other environmental consequences of the world's burgeoning population are tropical deforestation, erosion of arable land and watersheds, extinction of plant and animal species, and pollution of air, water, and land.

For almost 30 years, population assistance has been a central component of U.S. development assistance. While much more remains to be done, population assistance has had a significant positive impact on the health of women and their children and on society as a whole in most countries. In many parts of Asia, Latin America, and Africa, fertility rates have decreased, often dramatically. Couples are succeeding in having the smaller families they want because of the greater availability of contraceptives that our assistance has made possible.

Today, approximately 55 percent of couples worldwide use modern methods of contraception, compared with 10 percent in the 1960's. Despite this impressive increase in contraceptive use, the demand for family planning services is growing, in large measure because populations are growing. Indeed, over the next 20 years, the number of women and men who wish to use contraception will almost double.

Similarly, population assistance has contributed to the significant progress that has been made in reducing infant and child mortality rates. Child survival is integrally linked to women's reproductive health, and specifically to a mother's timing, spacing and number of births. Despite substantial progress, a large proportion of children in the developing

world—particularly in sub-Saharan Africa and some Asian countries—still die in infancy.

And, while many countries in the developing world have succeeded in reducing maternal mortality rates, the incidence of maternal death and disability remains unacceptably high, constituting a serious public health problem facing most developing countries. According to the World Health Organization, an estimated 500,000 women die every year as a result of pregnancy and childbirth.

U.S. population assistance is preventive medicine on an international scale. Congress has long recognized this to be the case and over the years has reaffirmed the importance of population assistance in securing U.S. interests abroad. By addressing the basic health and educational needs of women and their families, population assistance provides building blocks for strong democratic government and sets the stage for economic growth. Furthermore, it helps prevent social and political crises, thereby averting the need for costly relief efforts.

At the International Conference on Population and Development [ICPD], held in Cairo last year, the United States was instrumental in building a broad consensus behind a comprehensive Program of Action, which was signed by almost all of the 180 countries that participate in the conference, and which will help guide the population and development programs of the United Nations and national governments into the next century. Central to this plan is the recognition that with adequate funding this decade for family planning and reproductive health services, as well as educational, economic, and social opportunities necessary to enhance the status of women, we can stabilize world population in the first half of the next century.

This bill, however, seems to abandon the goals of the ICPD and the international community. Throughout the Bush administration, and in the last two budgets, the President and Congress have seen fit to increase funding for population assistance, believing strongly that population funding is one of the most cost effective and important uses of our foreign aid dollars. In fact, I recently submitted a letter to the gentleman from Alabama [Mr. CALLAHAN] with the signatures over 100 of our colleagues, urging the committee to fund population programs at the level requested by the President—$635 million.

Instead, the Appropriations Committee has recommended reducing population funding to roughly $300 million, and eliminating the population and development account all together.

These significant cuts in population programs will have devastating and irreversible consequences for the future course of fertility decline in developing countries. The effects of a 50 percent population funding reduction will be felt most immediately in the health and well-being of women and children in developing countries, but will also be felt by the larger global community. Without these funds, there will likely be an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, more than 350,000 abortions, and 8,000 maternal deaths.

In addition to these sharp reductions in population assistance, related programs for maternal health, disease prevention, general education, agricultural improvement and rural development will devastated by the cuts in this bill. Although the Appropriations Committee has quite laudably attempted to place an emphasis on helping the world's children, this bill would cut many of the programs that will benefit children the most. It contains large cuts in maternal health—$50 million—in efforts to strengthen health care systems which deliver services to both children and adults—$88 million—and in water sanitation programs—$27 million.

Of these proposed cuts, one of the most startling and destructive is the reduction for maternal health. In the set of 18 countries central to USAID's goal of reducing maternal mortality, drastic reductions in the funding for delivery of safe pregnancy services will contribute to an estimated 24,000 maternal deaths annually that would have been otherwise averted. In addition to these preventable maternal deaths, an additional 336,000 stillbirths and early newborn deaths are likely to occur as a result of USAID's virtual withdrawal from this program. Finally, the delivery of safe pregnancy and related services not only averts maternal deaths, it also helps to avert long-term—chronic—disabilities that occur due to pregnancy and childbirth. In these 18 key countries, estimates of the number of pregnancy-related chronic disabilities are as high as 7 million annually.

I would also like to say a few words about the Smith amendment to this bill, which has been granted a waiver in the rule for violating the prohibition against legislating in an appropriations bill.

Aside from the fact that this waiver is strongly opposed by the chairman of the International Relations Committee, Mr. GILMAN, and should not have been granted, the Smith amendment will deny millions of women access to family planning, prenatal care, safe delivery services, maternal and infant health programs, treatments for infertility, and STD prevention services. It could result in over hundreds of thousands of abortions that could have been averted had these women had access to basic health services.

Contrary to what Mr. SMITH and other proponents of this amendment will argue, this is not about abortion—it is about family planning, and the fact that this amendment will cut population assistance funding to its lowest level in 25 years, when adjusted for inflation. The fact remains that U.S. funds do not pay for abortions. For over 20 years, under the Helms amendment to the Foreign Assistance Act, Federal law has prohibited any U.S. funds from being used for abortions, or to promote abortion. H.R. 1868 retains this prohibition.

The proponents of this amendment also claim that it simply restores anti-abortion policies of the Reagan administration. But it goes further than the so-called Mexico City policy, which prohibited funding to organizations that perform abortion with private funds. It also targets the political messages of family planning providers. It would prevent organizations that receive U.S. population assistance from using their non-U.S. funds in efforts to influence their own country's abortion law, either for or against. Thus, although it is already illegal to use U.S. funds to lobby, groups on both sides of the abortion issue would be penalized for exercising their rights to express their views on abortion.

Finally, Mr. SMITH, in past debates, has misstated the role and involvement of the United Nations Population Fund [UNFPA] in China. No one disagrees that the coercive Chinese population program is abhorrent, and the UNFPA in fact categorically condemns the use of coercion in any form or manner in any population program, including China. Mr. SMITH has said that the UNFPA cannot say enough good things about the Chinese program, and that China could not ask for a better front than the UNFPA. But Mr. SMITH relies on a 1989 quote from UNFPA executive director, Dr. Nafis Sadik, that was taken out of context, at a time when the Chinese seemed to be making progress towards improving the program. The fact is that no evidence has ever been presented of complicity by international agencies, including the UNFPA, in Chinese human rights abuses and, as confirmed by USAID during the Reagan administration, UNFPA does not fund abortion or support coercive practices in any country, including China.

Mr. SMITH's amendment ignores the benefits of the UNFPA's presence in China and over 140 other countries. One of the reasons the international community has information about the horrors of the Chinese program is because of the presence in China of international organizations such as the UNFPA. Moreover, many countries believe that by providing assistance to China, UNFPA is in a unique position to positively influence China's population policies and to promote human rights. UNFPA is in constant dialog with Chinese officials at every level on matters pertaining to human rights, and UNFPA's programs expose Chinese officials to international standards through international training in foreign institutions, including several United States universities. Moreover, denying funding to the UNFPA would have a drastic effect on the UNFPA's programs in the rest of the world. Nearly half of UNFPA assistance is used for family planning services and maternal and child health care in the poorest and most remote regions of the world.

Mr. Speaker, for these and other reasons, I urge our colleagues to vote against the unwise, counterproductive, and ultimately destructive cuts in our Nation's foreign assistance budget contained in this bill. These programs work. Combating rapid population growth, enhancing maternal health, insuring child survival, reducing the spread of disease, providing basic education, and improving agriculture and sustainable development are some of the most humane, farsighted and economically effective efforts we can undertake. Maintaining adequate funding for these programs now will save many times this expense in future U.S. foreign assistance, will greatly reduce human suffering, will promote global peace and security and will promote and protect U.S. foreign policy interests.

I urge a ''no'' vote on the rule, and on the bill.

Mr. GOSS. Mr. Speaker, may I ask for an accounting on the time?

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] has 16 minutes remaining, and the gentleman from Ohio [Mr. HALL] has 15 minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GEKAS].

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

Mr. GEKAS. Mr. Speaker, I appreciate the yielding of time, because I

want to rise in support of the rule that is pending, largely because it will be accommodating an amendment to be offered by the gentleman from Illinois [Mr. PORTER] at a later point in the proceedings, which will seek to modify the behavior of the Turkish Government vis-a-vis the Kurds and the record of human rights violations that has become replete over the last few years.

I would not pay so much attention to it as an individual Member of the Congress as I normally would, except that this record, attached to the Turkish behavior with the Kurds, is only but the latest of other reported, documented, and severe human violations perpetrated by the Turkish Government previously, and next to the current government, in Cyprus, for instance. There we are in the untenable position of furnishing aid to a government which turns American weapons, as it were, on to the Cypriot population, and commits human rights violations there using American money and guns.

Now, the United Nations took note of that. The international community, even on the floor of the Congress, there was commentary after commentary and action after action taken at those particular times. But now there is just too much. We cannot tolerate this kind of behavior anymore.

The Kurds' situation allows us to begin to modify the behavior of Turkey with respect to that segment of the world. I have heard the gentleman from Florida, who wants to modify behavior in Haiti through this amendment process. The gentleman from Florida [Mr. GOSS] seeks to conduct or help conduct foreign policy with respect to Haiti with the elections that are pending there. The gentleman from New Jersey [Mr. MENENDEZ] seeks to modify, along with the help of the gentleman from Florida, the issue of Russia and Cuba and a nuclear reactor.

I ask those individuals and all the remaining Members on the floor of the House and in their offices to pay attention to this particular vital issue on the Porter amendment, which can bring about a better future for the Kurds and to begin to curb the human rights violations perpetrated for decades now by the Government of Turkey.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, we have heard a lot of talk about the careful tailoring in this rule for various interests, but we have not heard a word about the vastly popular deficit reduction lockbox. This is the third appropriations bill we are considering, and the third time the Committee on Rules has not make the lockbox in order. For that reason, I rise in opposition to this rule.

The lockbox is widely popular here; 418 votes to 5 passed it as part of the rescissions bill. All members of the Committee on Rules voted for it. Most of America wants it. It is our best available tool now to make sure that money cut from these appropriations bills goes to deficit reduction.

Just yesterday we passed the military construction appropriations bill. We cut over $20 million from that bill in floor amendments. None of that money will go to deficit reduction. All of it will be reprogrammed. That is wrong.

The rule is wrong too. The lockbox should be in order. The lockbox should be in order under the rule on every appropriations bill, and should be passed, as most Members of this House wanted it to as an amendment to the budget act.

So vote ''no'' on this rule and vote for the bipartisan Brewster-Harman deficit lockbox.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

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

Mr. PORTER. Mr. Speaker, I thank my friend and colleague for yielding.

Mr. Speaker, I reluctantly oppose the rule we are considering for the Foreign Operations bill today. I have great respect for the chairman of our Committee on rules and great respect for the chairman of the appropriations subcommittee and for the good work that he has done to try to find common ground in the bill, and I support the bill. But I cannot support a rule that will waive points of order against an amendment that is pure authorizing language and that will effectively gut our country's bilateral and multilateral population programs.

Mr. Speaker, the Smith amendment has no place in this bill. I am, frankly, very surprised it was made in order under the rule. A nearly identical Smith amendment was adopted during consideration of the foreign aid authorizing bill earlier this year. While I disagreed with the amendment then and spoke out against it, I did not question the Member's right to offer it at the time. That was the appropriate bill and the correct forum for that debate.

But now, however, the Committee on Rules has given extraordinary consideration to those who oppose voluntary family planning by making this amendment in order on a totally inappropriate bill. This is, in my judgment, not fair, since the bill as reported contains no funds whatsoever for abortion, no funds whatsoever for China. The Smith amendment confirms this, but goes further to gut the voluntary familiar family planning programs in the bill, harming millions of couples around the world.

Mr. Speaker, I have the highest respect for the gentleman from New Jersey, who is my friend and colleague. And he and I and the gentleman from Virginia [Mr. WOLF] in fact are joining together on the amendment that the gentleman from Pennsylvania [Mr. GEKAS] mentioned, the fact that we are aiding a country that is committing genocide against its Kurdish population. Mr. SMITH and Mr. WOLF and I are joining together to offer an amendment that will cut aid to Turkey, who is committing genocide against its Kurdish population, is preventing our aid from reaching our allies in Armenia, and is continuing its 21 year occupation of the Island of Cyprus and its intransigence in helping to reunite that island as a country.

So I have the greatest respect for the gentleman from New Jersey [Mr. SMITH]. But, very frankly, his amendment does not belong on this piece of legislation. For that reason, I would urge the Members to send this rule back to the Committee on Rules for rewriting, and will have to oppose the rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

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

Mr. RICHARDSON. Mr. Speaker, I would like to thank the majority and minority of the Committee on Rules for allowing three amendments that I will be offering on a bipartisan basis. I also wish to thank Mr. CALLAHAN and Mr. OBEY and their staffs for their assistance in helping me deal with these amendments.

Mr. Speaker, the open rule that we will be debating allows an open debate on the harsh realities that exist today in Burma. My most recent trip to that country was extremely disappointing on account of the Burmese regime's entrenchment on human rights and democratization efforts. As a result of this entrenchment I will be offering two amendments with the gentleman from California [Mr. ROHRABACHER] intended to further isolate this repressive regime by cutting all counternarcotics assistance and providing additional funds for the refugee crisis along both sides of the Thai-Burma border.

Burma's ruling military government has established itself as unquestionably the heavyweight champion of repressive governments by violating human rights and detaining the leader of Burma's Democrat movement, Aung San Suu Kyi, for the past 6 years. She courageously is in house arrest without any kind of prospects for being released. Recent efforts to obtain visas by the authors of this amendment have either been denied or granted only after preconditions were met. Leading opposition members of the National League for Democracy in Burma were arrested after I met with them last month.

Perhaps as the most egregious of all human rights violations, Dr. Michael Aris, Aung San Suu Kyi's husband, has been denied access to his imprisoned wife. Just last week the International

Committee for the Red Cross abandoned efforts to work with the Burmese Government because of unacceptable conditions imposed by the SLORC on the activities of the Red Cross. So, after permitting the Red Cross to come in to inspect prisons in Burma, they were thrown out.

What we have here is a case of a policy that right now is moving in the direction of dealing with the heroin crisis. That is important. But it does not mean that this administration or any administration should reward a repressive regime with counternarcotics assistance. The amendment that I will be offering with the support of many Members of the majority and minority hopefully will make sure that this does not happen.

Mr. Speaker, let me conclude with a discussion of the refugee crisis from both sides of the Thai-Burma border that is worsening. The launching of an offensive against the Karen refugees this spring resulted in an outflow of an estimated additional 20,000 refugees to Thailand, bringing the population there to over 90,000.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to my distinguished colleague and friend, the gentlewoman from the State of Florida, Ms. ILEANA ROS-LEHTINEN.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to thank the gentleman for yielding.

Mr. Speaker, first I would like to thank the gentleman from Alabama, Chairman CALLAHAN, and especially Bill Englee from the chairman's staff, for their great help on this very important bill. The Menendez amendment which was granted a waiver from the Committee on Rules is a correct one and not a narrow interest amendment, because I believe that we must use all of the instruments at our disposal to pressure the Russian Government to immediately halt their intentions of aiding the Communist regime of Fidel Castro in finishing construction of the Juragua nuclear powerplant in Cienfuegos, Cuba. If completed, this nuclear plant will pose a serious threat to the safety of the United States, Central America, and the Caribbean.

Construction of the Juragua nuclear plant was halted in 1992 after the Castro regime was not able to obtain the foreign exchange necessary to finish construction. However, this past May, Russia and Cuba announced their intention to finish construction of this plant.

Completion of this nuclear powerplant could constitute the introduction of a real and permanent threat to the health and safety of our hemisphere. Numerous experts, including former technicians at the plant now living in the United States, have denounced its inadequate construction, as well as inferior equipment that was used in its construction. Moreover, the General Accounting Office reported allegations in 1992 that the Juragua nuclear plant was unsafe, and similar Soviet style plants in Eastern Europe have already suffered accidents. In fact, four such plants were shut down by the German Government after reunification of that country.

Mr. Speaker, we cannot allow this type of threat to the security of the United States to be present just a few hundred miles from our shores, especially in the hands of a totalitarian tyrant like Fidel Castro, who has no respect for the dignity of human life.

□ 1630

We must pressure the Government of Russia to stop helping the Castro regime in finishing construction of this nuclear plant. There are several amendments presented in this bill to accomplish this. Do our constituents want their tax dollars to build a Chernobyl-style nuclear facility just miles from the coast of the United States? Do our constituents want an unsafe nuclear reactor operated by one of the last Communist strongholds being built with U.S. funds? I think the answer clearly is ''no.''

The Committee on Rules was correct in granting the waiver, and I urge a ''yes'' vote on this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

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

Mr. PALLONE. Mr. Speaker, I rise to express concern about a provision that has been included in this bill which would effectively change existing law through the appropriations process. The provision, which was put in the bill in the Subcommittee on Foreign Operations, would severely weaken section 907 of the Freedom Support Act of 1992. This provision bans direct United States Government assistance to the Government of Azerbaijan until Azerbaijan lifts its blockade of neighboring Armenia. This law made good sense when it was adopted 3 years ago in the wake of the breakup of the Soviet Union. It is morally justified and in U.S. interests, It should not be gutted through the appropriations process.

Mr. Speaker, the Azerbaijan blockade of Armenia has continued for 5 years, cutting off the transport of food, fuel, medicine, and other commodities. This ruthless blockade has caused a humanitarian crisis that has required the United States to send emergency assistance to Armenia. At a time when Armenia is trying to move forward with major market reforms and integrating its economy with the West, the Azerbaijan stranglehold has forced a shutdown of Armenian industry, caused massive unemployment, and obstructed rebuilding of areas damaged by the 1988 earthquake. Armenian children have had to do without schooling, and hospitals have been unable to care for the sick and the dying. There is no justification for this type of behavior. American taxpayers should not be asked to reward or appease these actions by Azerbaijan.

On the positive side, Mr. Speaker, I wish to commend the Foreign Ops Subcommittee, and in particular the gentleman from Illinois [Mr. PORTER], for the inclusion in the legislation of language incorporating the Humanitarian Aid Corridor Act. This provision would deny U.S. assistance to countries which block the shipment of American humanitarian aid to other countries. This has been the case with the Republic of Turkey, which has maintained its own blockade of Armenia while collecting generous amounts of United States aid. Mr. Speaker, I think common sense and decency would argue that countries that block U.S. aid to other recipients should not themselves benefit from American largesse. I commend the committee for including this language, which was also part of the American Overseas Interests Act, and would urge Members to oppose any efforts to remove this provision.

I also understand the gentleman from Illinois [Mr. PORTER] has also an amendment to limit assistance to Turkey in part linked to its blockade of Armenia. I would also urge support of this amendment.

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

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

First of all, I would point out that some of the discussion has been talked about with regard to Haiti and Turkey and so forth. We are talking about cutting amendments, and we do have an open rule. So that is in the area of the spirit of things that are traditional and available to any Member under this type of legislation, as we all know, nothing really extraordinary there. And the fact that we have an open rule on an appropriations bill, I think, is very important for the deliberative process, something we promised we would do as often as possible.

With regard to the concern of the gentleman from Illinois [Mr. PORTER], on the Smith amendment, indeed we have not followed exactly the authorizing language because we did pass an authorizing bill and that is what we want to follow.

With regard to the concern of the gentlewoman from California [Ms. HARMAN], about the lockbox, she needs to know that we are dealing with that issue. We have planned debate and hearings and so forth, and she has been advised that she will be invited to participate.

So there is process in the legislative mill. It just does not happen to be ready yet for the appropriations round that we are in now. Many of us wish it were. I hope we get there soon. We are trying.

Finally, I think a very important point on this rule, I do not think anybody has really suggested this is not fair rule, but I would point out that last year the Committee on Rules, this was under the previous majority, the Committee on Rules made in order

only eight amendments on this appropriations bill, five by Republicans and three by Democrats. We thanked them for those five. The rule waived all points of order against all eight amendments. By our count, five of the eight involved violations of clause 2 of rule XXI. So if your concern is that, we are definitely making progress and doing a better job of getting our authorizers and appropriators in sync. I think that is important. I think it makes for a better product and an easier vote.

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

The SPEAKER pro tempore (Mr. CAMP). The question is on ordering the previous question.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 221, nays 178, not voting 35, as follows:

[Roll No. 418]

YEAS—221

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—178

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Tejeda
Thompson
Thornton
Thurman
Towns
Traficant
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—35

Ackerman
Bilbray
Burton
Chrysler
Clayton
Crane
DeFazio
Dooley
Frost
Gejdenson
Geren
Graham
Hansen
Hastert
Houghton
Istook
Jefferson
Kingston
LaFalce
LaTourette
Laughlin
Levin
McDade
McHugh
Mica
Moakley
Parker
Payne (VA)
Pryce
Rose
Seastrand
Serrano
Stupak
Tate
Torres

□ 1656

Mr. BROWN of California and Mr. VOLKMER changed their vote for ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CAMP). The question is on the resolution.

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

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 217, noes 175, not voting 42, as follows:

[Roll No. 419]

AYES—217

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hancock
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen

Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—175

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Towns
Tucker
Velázquez
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—42

Ackerman
Barton
Bilbray
Burton
Chrysler
Clayton
Crane
DeFazio
Dooley
Dornan
Doyle
Frost
Gejdenson
Geren
Graham
Hansen
Hastert
Houghton
Istook
Jefferson
Kennedy (MA)
Kingston
Kleczka
LaFalce
Largent
LaTourette
Laughlin
Levin
McDade
McHugh
Mica
Moakley
Parker
Pastor
Payne (VA)
Pryce
Rose
Seastrand
Serrano
Stupak
Tate
Torres

□ 1705

Mr. HALL of Texas and Mr. NADLER changed their vote from ''aye'' to ''no.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. GEPHARDT. Mr. Speaker, I yield to the distinguished majority leader to inquire about the schedule for next week.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, on Monday, June 26, the House will meet in pro forma session. There will be no recorded votes on Monday.

On Tuesday, the House will meet at 10:30 a.m. for morning hour and 12 noon for legislative business. We plan to consider one bill under suspension of the rules, H.R. 1565, legislation extending health care to veterans who have been exposed to Agent Orange. We will then continue consideration of H.R. 1868, the fiscal year 1996 foreign operations appropriations bill.

On Wednesday, the House will meet at 10 a.m. to take up House Joint Resolution 79, a resolution proposing a constitutional amendment prohibiting desecration of the U.S. flag, subject to a rule. We then plan to spend the balance of the week working on appropriations bills. We will complete the foreign operations legislation and, time permitting, consider the fiscal year 1996 energy and water, Interior, and Agriculture appropriations bills. On Thursday and Friday, the House will meet at 10 a.m. for legislative business.

Mr. Speaker, it is our hope to have Members on their way home to their families and their districts by no later than 3 p.m. on Friday.

Mr. GEPHARDT. If the gentleman will answer a question or two here. I wonder if the gentleman can advise Members how late he expects the House to work on Tuesday, Wednesday, and Thursday.

Mr. ARMEY. If the gentleman will yield further, I think the Members should be prepared to work very late on all three of those evenings, Tuesday, Wednesday, and Thursday.

I would point out that we are prepared and hopeful that we can during next week deal with a budget conference report, perhaps the Medicare select report, and hopefully we would be able to do something on a rescissions or supplemental assistance bill.

Mr. GEPHARDT. On that score, on an earlier version of the schedule provided by the majority, the rescissions bill was listed. It is not on the schedule that you just outlined. You just mentioned it. I assume that you are thinking it might come forward as well next week?

Mr. ARMEY. If the gentleman will yield further, we are still hopeful to have some continued discussions with the White House, but I believe that it is very likely that we will be able to do that next week.

Mr. GEPHARDT. The Committee on Rules is scheduled to meet on Tuesday to consider a rule regarding the constitutional amendment on the flag. Could the gentleman or the distinguished chairman of the Committee on Rules advise Members what rule is expected for that resolution?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York, the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. I would say to the minority leader that the Committee on Rules will be meeting, I believe, at 2 p.m. on Tuesday afternoon. The Interior appropriations bill has been pulled from that meeting and we will only consider the constitutional amendment that would allow States to ban the physical desecration of the American flag. It certainly will come to the floor under a rule and probably with 1 hour of debate and some time for a substitute by those that might be in opposition to the bill. We are in negotiation now as to just exactly how the rule would be brought to the floor.

Mr. GEPHARDT. I thank the gentleman.

A couple of further questions. Could the gentleman advise Members as to when he expects the House to consider the budget conference report? I think he answered that and said it might be coming forward next week. I assume at this point you are not sure of that, but it could happen?

Mr. ARMEY. If the gentleman will yield further, we are optimistic and we would hope if everything comes together that we might be able to do that on Thursday. Possibly Friday morning.

However it works, we will do our utmost to maintain our commitment to the 3 p.m. departure for the district work period. But I should expect it would be Thursday or Friday morning.

Mr. GEPHARDT. Finally, at the end of the week, we begin the Fourth of July recess.

Could the gentleman advise Members whether he expects votes on Monday, July 10?

Mr. ARMEY. If the gentleman will yield further, I believe we would probably need to be prepared to have votes by, say, 5 p.m. on Monday, July 10. We will try to examine that and make an announcement later next week if there is any change from that.

Mr. GEPHARDT. I thank the gentleman.

Mr. Speaker, I would just end with one statement for consideration. I know the gentleman is trying, as we said this morning, to have a family friendly situation here and that was part of the reason I assume we had problems with cutting off times on votes. We appreciate that.

I would just hope that if it can be worked out next week if there is one of the nights next week that could not be extra late, that might be helpful to

people. I realize you are trying to juggle a lot of different bills and conference reports. But to the extent we could work to make that happen, I am sure Members would appreciate that.

Mr. ARMEY. I do appreciate that. I do think the Members ought to certainly make sure they make good arrangements for Monday night next week.

Mr. GEPHARDT. I thank the gentleman.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 1868, and that I be able to insert tabular and extraneous material.

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

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1868.

The Chair designates the gentleman from Utah [Mr. HANSEN] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. BOEHNER] to assume the chair temporarily.

□ 1714

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BOEHNER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considerd as having been read the first time.

Under the rule, the gentleman from Alabama [Mr. CALLAHAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. CALLAHAN. Mr. Chairman, before I address the contents of this appropriations bill, let me take a moment to thank the staff of our Subcommittee on Foreign Operations, Export Financing and Related Programs. This newly assembled little group got together only a few months ago, they are very professional. I want to tell you, it is a pleasure to work with them, particularly Charlie Flickner, Bill Inglee, John Shank, Lori Maes, and our CRS detail, Larry Nowels, and also to work with Terry Peel on the minority staff as well as Nancy Tippins on my own staff.

□ 1715

They were all very professional, and without their professional help we would not be here today with this bill.

Mr. Chairman, as far as I know, each and every member of the subcommittee supported bringing this bill to the House floor and each and every one had to go along with things they did not want. This is what legislation in the Congress is all about, compromise.

I want to thank our chairman, the gentleman from Louisiana [Mr. LIVINGSTON], for all his help at the early stage of the process. And I appreciate the efforts of my predecessor, the gentleman from Wisconsin [Mr. OBEY], and the ranking member of our subcommittee, the gentleman from Texas [Mr. WILSON], for their patience, understanding, and guidance. Everything we are doing is building on the record that the gentleman from Louisiana [Mr. LIVINGSTON], made in the last Congress, along with the former chairman, the gentleman from Wisconsin [Mr. OBEY].

Mr. Chairman, now let me simply address the contents of this bill. It is a foreign aid bill for sure, but it is more than that. It is the instrument for this President, and any future President, to work out foreign problems with more than talk but less than military force.

If Members find time to look at our committee report this weekend, I urge them to take a close look at the general introduction, beginning on page 3. Those pages express better than I can this afternoon what this bill is about and why it is necessary.

It is the instrument for American businesses and private groups to help less fortunate nations develop economically. The first items in this bill, in title I, are for export and investment assistance, and they are a priority for this committee this year. The best way to demonstrate a market economy is to do it, and that is what our businesses and investors enable others to do: learn about business by buying, selling, building, and working with American capitalists.

Because of the budget, we have had to reduce the more traditional types of development assistance, particularly when it is done through the multilateral banks. The committee does protect two categories of aid: children's programs and efforts to fight infectious diseases. In fact, we recommend a new account in the Treasury to ensure that children are protected and we continue a vigorous fight against diseases that affect both children and adults.

I am not sure that many American's are aware that our public health officials are moving towards the eradication of polio. Rotary International has been the sparkplug of this effort, and they have brought that to our attention.

In title III of the bill we have tried to go along with as much of the President's request for military assistance as we were able to afford. We have included the economic support fund and the military finance moneys that are sufficient to fulfill the Camp David accord needs. We also went along with the President's Warsaw initiative to help new democracies in Central Europe contribute to European security.

The final title, multilateral economic assistance, has had to bear the bulk of the reductions we made. That is not because our subcommittee does not appreciate what many of these banks and agencies do, but we simply had a higher priority on bilateral programs undertaken by our own Government. I would note that funding for UNICEF has been moved from title IV to the Child Survival and Disease Programs Account in title II, at the current level of $100 million.

The subcommittee has removed many of the general provisions from title V. Some of them have been picked up in the authorization bill. Others were no longer needed. Many of the amendments that have been filed will occur during consideration of the general provisions title.

Let me close by going over a few of the numbers. The dollar levels that the House provides in this bill, history indicates, will be very close to what the final, enacted numbers are.

This bill is less than $12 billion in budget authority. That is $1.5 billion less than the current year, and almost $10 billion less than the level of a decade ago. It is the lowest level in a decade.

At $11.99 billion, this bill is $2.8 billion less than the President's request, a reduction of 19 percent. that may be the largest reduction in history. We know it is the largest reduction within the last two decades.

Finally, this bill is under the congressional budget. In fact, it is over $200 million under our subcommittee allocation.

Mr. Chairman, this is a good bill. We have tried to come up with a fair bill and we worked hard to balance the priorities of the new Republican majority and our veteran Democratic Members. I think we have accomplished what we set out to do.

There will be those who will come to the floor today and next week when we continue this bill who will want to spend more money on foreign aid, but I would ask each and every one of them to recognize the message that the American people sent to us in November. They said to cut spending. They did not say to cut spending in every area that we deal in except foreign aid. They said to cut everything.

There will be those that want to increase that, but there is no money to increase that. We have given the President the latitude he needs to have an effective foreign policy. We give him in this bill all of the money that we can afford for foreign operations for the next fiscal year.

So I think we have been fair to the administration. Certainly the minority party has been fair in negotiating how we spend this limited amount of money next year. It is the best that we can do.

So those of you who that are planning to come forward next week and indicate that you want to spend more, that you want to give the President more, forget about it. We are not going to go any higher. We cannot go any higher.

Mr. Chairman, I include for the RECORD:

ROTARY INTERNATIONAL,
THE ROTARY FOUNDATION,
Evanston, IL, June 16, 1995.

Hon. SONNY CALLAHAN,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN CALLAHAN: I join with the 1.2 million Rotarians worldwide in thanking you for your leadership on polio eradication. We were pleased to find out that the House Foreign Operation Appropriations Subcommittee included Report Language recommending up to $20,000,000 for targeted polio eradication efforts in fiscal year 1996.

We believe this direction from the Subcommittee is a critical first step in our fight to eradicate polio by the year 2000. This language is essential to focusing our humanitarian assistance programs on efforts that can be successful in providing important health benefits for the world's children, while at the same time saving money here in the United States.

We are encouraged by the Report Language in the Foreign Operations Subcommittee, which has demonstrated the broad consensus on the value of polio eradication. We look forward to celebrating the eradication of this disease in the year 2000.

Sincerely,

HERBERT A. PIGMAN,
General Secretary.

FOREIGN OPERATIONS APPROPRIATIONS BILL (H.R. 1868)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - EXPORT AND INVESTMENT ASSISTANCE					
EXPORT-IMPORT BANK OF THE UNITED STATES					
Limitation of Program Activity:					
Subsidy appropriations	786,551,000	823,000,000	786,551,000	.....	-36,449,000
Administrative expenses	45,228,000	47,000,000	45,228,000	.....	-1,772,000
Negative subsidy	-49,656,000	-89,646,000	-89,646,000	-39,990,000	.....
Total, Export-Import Bank of the United States	782,123,000	780,354,000	742,133,000	-39,990,000	-38,221,000
OVERSEAS PRIVATE INVESTMENT CORPORATION					
Operating expenses	7,933,000	16,000,000	15,500,000	+7,567,000	-500,000
Non-credit administrative expenses	16,389,000	11,000,000	11,000,000	-5,389,000	.....
Insurance fees and other offsetting collections	-151,620,000	-202,500,000	-202,500,000	-50,880,000	.....
Direct loans:					
Loan subsidy	8,214,000	4,000,000	4,000,000	-4,214,000	.....
(Loan authorization)	(19,895,000)	(79,523,000)	(79,523,000)	(+59,628,000)	.....
Guaranteed loans:					
Loan subsidy	25,730,000	75,000,000	75,000,000	+49,270,000	.....
(Loan authorization)	(481,913,000)	(1,491,054,000)	(1,491,054,000)	(+1,009,141,000)	.....
Total, Overseas Private Investment Corporation	-93,354,000	-96,500,000	-97,000,000	-3,646,000	-500,000
FUNDS APPROPRIATED TO THE PRESIDENT					
Trade and Development Agency					
Trade and development agency	44,966,000	67,000,000	40,000,000	-4,966,000	-27,000,000
International Financial Institutions					
Contribution to the International Finance Corporation	68,743,028	67,556,000	67,550,000	-1,193,028	-6,000
Enterprise for the Americas Multilateral Investment Fund	75,000,000	100,000,000	70,000,000	-5,000,000	-30,000,000
Total, International Financial Institutions	143,743,028	167,556,000	137,550,000	-6,193,028	-30,006,000
Total, title I, Export and investment assistance	877,498,028	918,410,000	822,683,000	-54,815,028	-95,727,000
(Loan authorizations)	(501,808,000)	(1,570,577,000)	(1,570,577,000)	(+1,068,769,000)	.....
TITLE II - BILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Agency for International Development					
Child survival and disease programs fund	.....	.....	484,000,000	+484,000,000	+484,000,000
Development assistance fund	840,500,000	1,300,000,000	669,000,000	-171,500,000	-631,000,000
Population, development assistance	450,000,000	.....	.....	-450,000,000	.....
Development Fund for Africa	802,000,000	802,000,000	528,000,000	-274,000,000	-274,000,000
International disaster assistance	169,998,000	200,000,000	200,000,000	+30,002,000	.....
Debt restructuring	7,000,000	25,500,000	7,000,000	.....	-18,500,000
(By transfer)	.....	.....	(15,500,000)	(+15,500,000)	(+15,500,000)
Micro and Small Enterprise Development program:					
Subsidy appropriations	1,500,000	12,000,000	1,500,000	.....	-10,500,000
Administrative expenses	500,000	2,500,000	500,000	.....	-2,000,000
(Direct loan authorization)	(1,000,000)	(3,540,000)	(1,435,000)	(+435,000)	(-2,105,000)
(Guaranteed loan authorization)	(18,564,000)	(138,880,000)	(16,700,000)	(-1,864,000)	(-122,180,000)
Housing and other credit guaranty programs:					
Subsidy appropriations	19,300,000	16,760,000	.....	-19,300,000	-16,760,000
Operating expenses	6,000,000	7,240,000	7,000,000	-1,000,000	-240,000
(Guaranteed loan authorization)	(137,474,000)	(141,886,000)	.....	(-137,474,000)	(-141,886,000)
Subtotal, development assistance	2,296,798,000	2,366,000,000	1,897,000,000	-401,798,000	-469,000,000
Payment to the Foreign Service Retirement and Disability Fund	45,118,000	43,914,000	43,914,000	-1,204,000	.....
Operating expenses of the Agency for International Development	517,500,000	529,000,000	465,750,000	-51,750,000	-63,250,000
Reform and downsizing	.....	.....	29,925,000	+29,925,000	+29,925,000
Operating expenses of the Agency for International Development Office of Inspector General	39,118,000	38,118,000	35,200,000	-3,918,000	-3,918,000
Subtotal, Agency for International Development	2,900,534,000	2,976,032,000	2,471,789,000	-428,745,000	-506,243,000
Other Bilateral Economic Assistance					
Economic support fund	2,349,000,000	2,494,300,000	2,326,700,000	-22,300,000	-167,600,000
International fund for Ireland	19,600,000	.....	19,600,000	.....	+19,600,000
Assistance for Eastern Europe	359,000,000	480,000,000	324,000,000	-35,000,000	-156,000,000
Assistance for the New Independent States of the Soviet Union	842,500,000	788,000,000	595,000,000	-247,500,000	-193,000,000
Procurement: General provisions	-1,598,000	.....	.....	+1,598,000	.....
Subtotal, Other Bilateral Economic Assistance	3,568,502,000	3,762,300,000	3,265,300,000	-303,202,000	-497,000,000
Total, Agency for International Development	6,469,036,000	6,740,332,000	5,737,089,000	-731,947,000	-1,003,243,000

FOREIGN OPERATIONS APPROPRIATONS BILL (H.R. 1868)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Independent Agencies					
African Development Foundation					
Appropriations	16,905,000	17,405,000	10,000,000	-6,905,000	-7,405,000
Inter-American Foundation					
Appropriations	30,960,000	31,760,000	20,000,000	-10,960,000	-11,760,000
Total, Funds Appropriated to the President	6,516,901,000	6,789,497,000	5,767,089,000	-749,812,000	-1,022,408,000
Peace Corps					
Appropriations	219,745,000	234,000,000	210,000,000	-9,745,000	-24,000,000
Department of State					
International narcotics control	105,000,000	213,000,000	113,000,000	+8,000,000	-100,000,000
Migration and refugee assistance	671,000,000	671,000,000	671,000,000	.....	.....
Refugee resettlement assistance	6,000,000	.....	5,000,000	-1,000,000	+5,000,000
United States Emergency Refugee and Migration Assistance Fund	50,000,000	50,000,000	50,000,000	.....	.....
Anti-terrorism assistance	15,244,000	15,000,000	17,000,000	+1,756,000	+2,000,000
Nonproliferation and Disarmament Fund	10,000,000	25,000,000	20,000,000	+10,000,000	-5,000,000
Total, Department of State	857,244,000	974,000,000	876,000,000	+18,756,000	-98,000,000
Total, title II, Bilateral economic assistance	7,593,890,000	7,997,497,000	6,853,089,000	-740,801,000	-1,144,408,000
(By transfer)	.....	.....	(15,500,000)	(+15,500,000)	(+15,500,000)
(Loan authorizations)	(157,038,000)	(284,306,000)	(18,135,000)	(-138,903,000)	(-266,171,000)
TITLE III - MILITARY ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Military Education and Training	25,500,000	39,781,000	39,000,000	+13,500,000	-781,000
(By transfer)	(850,000)	.....	.....	(-850,000)	.....
Military to military contact	12,000,000	.....	.....	-12,000,000	.....
Foreign Military Financing Program:					
Grants	3,151,279,000	3,262,020,000	3,211,279,000	+60,000,000	-50,741,000
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
Direct concessional loans:					
Subsidy appropriations	47,917,000	89,888,000	64,400,000	+16,483,000	-25,488,000
(Loan authorization)	(819,850,000)	(795,000,000)	(544,000,000)	(-75,850,000)	(-221,000,000)
FMF program level	(3,770,929,000)	(4,027,020,000)	(3,755,279,000)	(-15,650,000)	(-271,741,000)
Total, Foreign military assistance	3,199,196,000	3,351,908,000	3,275,679,000	+76,483,000	-76,229,000
Special Defense Acquisition Fund: Offsetting collections	-282,000,000	-220,000,000	-220,000,000	+62,000,000	.....
Peacekeeping operations	75,000,000	100,000,000	68,300,000	-6,700,000	-31,700,000
Total, title III, Military assistance programs	3,029,896,000	3,271,689,000	3,162,979,000	+133,283,000	-108,710,000
(By transfer)	(850,000)	.....	.....	(-850,000)	.....
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
(Loan authorization)	(819,850,000)	(795,000,000)	(544,000,000)	(-75,850,000)	(-221,000,000)
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Financial Institutions					
World Bank Group					
Contribution to the International Bank for Reconstruction and Development:					
Paid-in capital	23,009,101	28,189,963	23,009,000	-101	-5,180,963
(Limitation on callable capital)	(743,923,914)	(911,475,013)	(743,900,000)	(-23,914)	(-167,575,013)
Contribution to the Global Environment Facility	90,000,000	110,000,000	50,000,000	-40,000,000	-60,000,000
Total, contribution to the International Bank for Reconstruction and Development	(856,933,015)	(1,049,664,976)	(816,909,000)	(-40,024,015)	(-232,755,976)
Contribution to the International Development Association	1,175,000,000	1,368,188,000	575,000,000	-600,000,000	-793,188,000
Total, World Bank Group	(2,031,933,015)	(2,417,832,976)	(1,391,909,000)	(-640,024,015)	(-1,025,923,976)
Budget authority	1,288,009,101	1,506,357,963	648,009,000	-640,000,101	-858,348,963
(Limitation on callable capital)	(743,923,914)	(911,475,013)	(743,900,000)	(-23,914)	(-167,575,013)
Contribution to the Inter-American Development Banic					
Inter-regional paid-in capital	28,111,959	25,952,110	25,950,000	-2,161,959	-2,110
(Limitation on callable capital)	(1,594,568,180)	(1,523,767,142)	(1,523,000,000)	(-71,568,180)	(-767,142)
Fund for special operations	21,338,000	20,835,000	.....	-21,338,000	-20,835,000
Inter-American Investment Corporation	190,000	.....	.....	-190,000	.....
Total, contribution to the Inter-American Development Bank	(1,644,206,139)	(1,570,554,252)	(1,548,950,000)	(-95,256,139)	(-21,604,252)

FOREIGN OPERATIONS APPROPRIATIONS BIL (H.R. 1868)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Contribution to the Asian Development Bank:					
Paid-in capital	.....	13,221,596	13,200,000	+13,200,000	-21,596
(Limitation on callable capital)	.....	(647,656,204)	(647,000,000)	(+647,000,000)	(-656,204)
Development fund	167,960,000	304,528,525	167,960,000	.....	-136,568,525
Total, contribution to the Asian Development Bank	(167,960,000)	(965,608,325)	(828,160,000)	(+660,200,000)	(-137,448,325)
Contribution to the African Development Fund	62,215,309	127,247,025	.....	-62,215,309	-127,247,025
Contribution to the African Development Bank:					
Paid-in capital	133,000	.....	.....	-133,000	.....
(Limitation on callable capital)	(2,002,540)	.....	.....	(-2,002,540)	.....
Total, contribution to the African Development Bank	(2,135,540)	.....	.....	(-2,135,540)	.....
Contribution to the European Bank for Reconstruction and Development:					
Paid-in capital	69,180,353	81,916,447	69,180,000	-353	-12,736,447
(Limitation on callable capital)	(161,420,824)	(191,138,376)	(161,400,000)	(-20,824)	(-29,738,376)
Total, contribution to the European Bank for Reconstruction and Development	(230,601,177)	(273,054,823)	(230,580,000)	(-21,177)	(-42,474,823)
North American Development Bank:					
Paid-in capital	.....	56,250,000	56,250,000	+56,250,000	.....
(Limitation on callable capital)	.....	(318,750,000)	(318,750,000)	(+318,750,000)	.....
International Monetary Fund					
Contribution to the enhanced structural adjustment facility	25,000,000	25,000,000	.....	-25,000,000	-25,000,000
Total, contribution to International Financial Institutions	(4,164,053,180)	(5,754,297,401)	(4,374,599,000)	(+210,545,820)	(-1,379,698,401)
Budget authority	1,662,137,722	2,161,308,666	990,549,000	-671,588,722	-1,170,759,666
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,384,050,000)	(+882,134,542)	(-198,938,735)
International Organizations and Programs					
International organizations and programs	374,000,000	425,000,000	155,000,000	-219,000,000	-270,000,000
(By transfer)	.....	.....	(15,000,000)	(+15,000,000)	(+15,000,000)
Total, title IV, contribution for Multilateral Economic Assistance.	(4,538,053,180)	(6,179,297,401)	(4,529,599,000)	(-8,454,180)	(-1,649,698,401)
Budget authority	2,036,137,722	2,596,308,666	1,135,549,000	-900,588,722	-1,460,759,666
(By transfer)	.....	.....	(15,000,000)	(+15,000,000)	(+15,000,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,384,050,000)	(+882,134,542)	(-198,938,735)
Grand total, all titles:					
New budget (obligational) authority	13,537,221,750	14,773,904,666	11,974,300,000	-1,562,921,750	-2,799,604,666
(By transfer)	(850,000)	.....	(30,500,000)	(+29,650,000)	(+30,500,000)
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,384,050,000)	(+882,134,542)	(-198,938,735)
(Loan authorizations)	(1,278,496,000)	(2,619,883,000)	(2,132,712,000)	(+854,216,000)	(-487,171,000)
TITLE I - EXPORT AND INVESTMENT ASSISTANCE					
Export Assistance Appropriations	1,078,774,028	1,210,556,000	1,114,829,000	+36,054,972	-95,727,000
Negative Subsidies and Offsetting Collections	-201,276,000	-292,146,000	-292,146,000	-90,870,000	.....
Total, Export Assistance	877,498,028	918,410,000	822,683,000	-54,815,028	-95,727,000
TITLE II - BILATERAL ECONOMIC ASSISTANCE					
Bilateral Development Assistance	4,025,388,000	4,235,197,000	3,587,789,000	-437,599,000	-647,408,000
Other Bilateral Economic Assistance	3,568,502,000	3,762,300,000	3,265,300,000	-303,202,000	-497,000,000
Total, Bilateral Economic Assistance	7,593,890,000	7,997,497,000	6,853,089,000	-740,801,000	-1,144,408,000
TITLE III - MILITARY ASSISTANCE					
Foreign Military Financing Program:					
Grants	3,151,279,000	3,262,020,000	3,211,279,000	+60,000,000	-50,741,000
Direct loans, subsidy costs	47,917,000	89,888,000	64,400,000	+16,483,000	-25,488,000
(Estimated level of direct loans)	(619,850,000)	(765,000,000)	(544,000,000)	(-75,850,000)	(-221,000,000)
Subtotal, Foreign Military Financing Program:					
Budget authority	3,199,196,000	3,351,908,000	3,275,679,000	+76,483,000	-76,229,000
(Program level)	(3,770,929,000)	(4,027,020,000)	(3,755,279,000)	(-15,650,000)	(-271,741,000)
Other, Military	112,500,000	139,781,000	107,300,000	-5,200,000	-32,481,000
Special Defense Acquisition Fund	-282,000,000	-220,000,000	-220,000,000	+62,000,000	.....
Total, Military Assistance Programs	3,029,696,000	3,271,689,000	3,162,979,000	+133,283,000	-108,710,000

FOREIGN OPERATIONS APPROPRIATONS BILL (H.R. 1868)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE					
Contributions to International Financial Institutions	1,837,137,722	2,136,308,666	980,549,000	-856,588,722	-1,155,759,666
International Monetary Fund (IMF)	25,000,000	25,000,000		-25,000,000	-25,000,000
International organizations and programs	374,000,000	425,000,000	155,000,000	-219,000,000	-270,000,000
Total, contribution for Multilateral Economic Assistance	2,036,137,722	2,586,308,666	1,135,549,000	-900,588,722	-1,450,759,666
Grand total, all titles	13,537,221,750	14,773,904,666	11,974,300,000	-1,562,921,750	-2,799,604,666

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

Mr. WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the passage of the foreign operations bill.

Although I hope that some funding adjustments can be made as the bill moves through the legislative process, I think the bill should be supported vigorously in its current form.

As the chairman has said, the committee has recommended a bill of $12 billion for fiscal year 1996, which is $1.5 billion, 11 percent, below last year, and more importantly, $2.8 billion below the President's request or 19 percent below the President's request. I dare say there will not be another appropriation bill presented to this House that is that much below the President's budget.

Funds are provided in the bill to meet the administration request for Camp David, and other commitments in the Middle East including Jordan and programs for the West Bank and for the Gaza Strip.

The bill also provides a significant program to help increase U.S. exports abroad, which is in my opinion one of the most important characteristics of the bill. The $822 million in export assistance in the bill will provide for more than $20 billion in guaranteed loans through the Export-Import Bank and more than $1 billion in assistance through the Overseas Private Investment Corporation.

I would like to say at this point that regarding OPIC, the Overseas Private Investment Corporation, that that is one of the very few agencies in the U.S. Government that pays more back into the Treasury, that remits more to the Treasury of the United States, than is appropriated for its operation.

So, it not only pays more back than we appropriate, but it also significantly affects in a positive way the balance of payments of the United States, as well as creating jobs and exports in every State in the Union.

The bill also helps meet our humanitarian commitment abroad by providing the amount requested by the administration for both refugee assistance and international disaster assistance.

The bill also, at the initiative of the chairman, sets aside significant funds for child survival and funds to meet our international commitment to fighting worldwide diseases.

I would also say, Mr. Chairman, that this bill is the result of very strenuous and vigorous negotiation and compromise on the part of all of the members of the committee and particularly of the chairman of the subcommittee, the chairman of the full committee, and the ranking member of the full committee.

The bill is truly bipartisan in nature and truly enjoys at this point bipartisan support. I can only express my hope that damaging amendments are not added to the bill which will upset the bipartisan balance that we have achieved.

I want to compliment the chairman again. I want to compliment the chairman of the full committee. I certainly want to compliment the ranking member, because everyone stretched their tolerance to the limit to reach a truly, truly, bipartisan compromise. I urge Members to stay with the bill as reported in the House and not to make changes that will endanger this bipartisan support.

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

Mr. CALLAHAN. Mr. Chairman, I would like to thank the gentleman from Texas [Mr. WILSON] for his comments and I would like to say that I omitted to recognize the gentleman's very able staff person, Kathleen Murphy, who did an outstanding job as well.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Louisiana, [Mr. LIVINGSTON], the chairman of the full committee.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman from Alabama [Mr. CALLAHAN], my good friend, the able chairman of the subcommittee, and rise in support of the fiscal year 1996 foreign operations bill.

First, let me pay special tribute to the great gentleman from Alabama [Mr. CALLAHAN] the distinguished chairman of the subcommittee. The gentleman has displayed not only great leadership, but diplomatic skills worthy of Henry Kissinger in shepherding this bill through the committee.

My friends, the gentleman from Texas [Mr. WILSON] and the gentleman from Wisconsin [Mr. OBEY], the ranking member, also deserve special praise for their hard work and willingness to develop a bipartisan consensus on what could have been a very difficult bill, but has not been because of their tremendous assistance and cooperation.

The gentleman from Alabama [Mr. CALLAHAN], the chairman worked with all of the members of the subcommittee, many members of the authorizing committee, and the administration to allocate the shrinking foreign assistance dollars in the fairest and most balanced manner possible. Due to the gentleman's inclusive leadership, we are able to present a bill with bipartisan support which we hope to pass.

I want to echo the comments of the gentleman from Texas [Mr. WILSON] that I hope also that it can be done with a minimum of amendments.

We are continuing the downward trend in foreign aid spending that has occurred in the last decade. We spent $18.3 billion on foreign operations appropriations in fiscal year 1985, which is $25 billion in today's dollars. Since today's bill is less than $12 billion, we have basically cut foreign aid in half over these last 11 years.

This bill makes the tough choices to cut $1.5 billion from last years's level and $2.8 billion from the President's request.

Despite the difficult cuts, we have protected the most vulnerable of those who rely on us, the young children and the victims of disease and disaster.

Therefore, I strongly support the decision of the chairman, the gentleman from Alabama [Mr. CALLAHAN] to create a new account called the child survival and disease program fund. At $484 million, it slightly increases the spending for protection of young children worldwide and it encourages the administration to fund programs to eradicate polio and reduce other infectious diseases, including AIDS.

While maintaining support for children and refugees, this bill reduces the old-style government-to-government foreign aid in favor of market-oriented, private-sector-driven economic growth. Genuine and sustainable development will be promoted far faster by investment by real entrepreneurs and expanded trade and capital formation by U.S. companies in emerging private sectors around the globe.

We have invested in programs that allow private companies to work with export assistance agencies to make broad-based economic growth a reality in developing free markets. The bill contains no earmarks, instead providing the President with maximum flexibility possible to develop foreign policy without micromanagement.

We could have used this bill to score political points against the President's foreign policy, or raised flowery rhetoric on controversial issues. We avoided pejorative political statements and instead provided the President with resources to conduct a global foreign policy letting the numbers speak for themselves.

We have accepted the reorganization savings made by the authorizing committee and kept the funding levels generally in line with the levels provided in H.R. 1561, the American Overseas Interest Act. If you voted for the authorization bill, you should support this appropriations bill.

We have maintained the funding levels to meet our Camp David commitments for Egypt and Israel. We have made children a priority and moved our aid program in the direction of promoting trade and free markets instead of government-to-government handouts.

Mr. Chairman, this is a responsible and balanced bill, and I urge all of our Members to cooperate with us and try to keep their amendments to the minimum, and I urge their support for the good work of the gentleman from Alabama [Mr. CALLAHAN] and the good work of all of the members of the subcommittee.

□ 1730

Mr. WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Let me, first of all, congratulate both the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] for the work they have done in putting together a bipartisan approach to this bill and to say that I feel that for a long time, regardless of partisan differences on many other issues, I believe this subcommittee has always served as an example of the way the Congress ought to work, putting policy ahead of party and putting the country ahead of personal considerations.

I do not think in the time that Mickey Edwards from Oklahoma was the ranking member or in the time that the gentleman from Louisiana [Mr. LIVINGSTON] was ranking member, and I chaired the subcommittee, that you could tell who was a Democrat and who was a Republican when we were addressing issues on this bill. There were no partisan scenes, and I think that the gentleman from Alabama [Mr. CALLAHAN] has made every effort, as has the chairman, the gentleman from Louisiana [Mr. LIVINGSTON], now that the Republicans are in control of this institution, to see to it that that tradition remains, and I congratulate them for it because that is the only way this country can function on foreign policy.

That does not mean we are going to agree on everything, because, as Will Rogers said, when two people agree on everything, one of them is unnecessary.

But the fact is that we have many times stood in the well in the last 10 years defending the positions and the prerogatives of the President of the United States, whether that President was a Republican or a Democrat, and I think it is essential on this bill that that tradition continue.

Having said that, I also feel an obligation to point out the priorities in this bill are not necessarily my priorities. I would prefer that military aid not be as high as it is in the bill, and I would prefer that some of the economic accounts be somewhat higher.

I also have very great doubts about both the administration's position and the subcommittee's position with respect to NATO. I would urge everyone to read the article by Mr. Hoagland in the Washington Post today if they want to understand what I mean.

And I am concerned very much about what I feel to be an insufficient appreciation for the delicate situation that exists in the Soviet Union, and I think that this Congress runs a very major risk of not dealing with that relationship in the most constructive way possible. I think there are significant defects in this bill with respect to that issue.

But having said that, I still intend at this moment to support this bill because it does represent a reasonable bipartisan effort to hold this institution together. It does not try, as the authorization bill sometimes does, to incredibly micromanage the Nation's foreign affairs. It does state clear policy preferences, but it does not try to micromanage, and I think that is a crucial difference.

I would simply concur in the statement made by the distinguished gentleman from Texas who indicated that this bill is very delicately put together and it will remain a bipartisan bill so long as it stands in roughly this shape.

The House has two choices it can make. It can choose, if it wants, to pass a partisan bill with nominal but not very enthusiastic support on this side of the aisle, in which case that bill may make a lot of people feel good temporarily. But it will in the end go nowhere because the President in the end has the veto pen, and I have no doubt he will use it if this bill is not consistent with his vision of the national interest.

But the other choice it can make is to try to do what we have tried to do many times in this country's history, which is to produce a bipartisan product which meets the needs of the United States without regard to ideological preference, and while this bill certainly has a strong philosophical bent in the direction of the gentleman from Alabama [Mr. CALLAHAN], that is to be expected because they have the votes for the time being, and I think what we need right now on both sides of the aisle is a determination that we will try to keep this bill as bipartisan as possible because in foreign affairs, and this is much more crucial than any other area of governance, although it would be useful in both, in foreign affairs it is crucial that we have continuity of policy so that we do not confuse our friends and that we do not confuse our adversaries.

I think this bill tries to do that to a significant degree, and that is why, at least at this moment, I support the legislation with all of my doubts about some of the edges.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the comments of the gentleman from Wisconsin and say that philosophically I agree with your statement that, with respect to the administration, I think the Constitution gives the responsibility and the authority to handle foreign affairs to the administration, and I think Congress has been too involved.

But we are here today, talking about money under today's circumstances.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. PORTER], a member of our subcommittee.

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

Mr. PORTER. Mr. Chairman, I support this bill and I want to commend the gentleman from Alabama for making the best of a very difficult budgetary situation. The bill is nearly $2 billion smaller than last year's, which represents a large cut in a relatively small bill, yet Mr. CALLAHAN worked tirelessly to ensure that the concerns and priorities of all the members of the subcommittee and committee were taken into account.

This is not to say that this bill is perfect—or could be in my view given the constraints the subcommittee is working under. But I believe the United States has not only an opportunity, but a responsibility, to take a leadership role in the world and promote our values of human rights, rule of law, democracy and free markets to the far corners of the globe. I am concerned that the cuts to the development assistance account—40 percent—gravely weaken our development programs, including voluntary family planning, environment, education, and microenterprise.

I strongly oppose any effort that may be made to further cut the development assistance account on the floor today or that will inhibit AID from undertaking much needed streamlining.

Perhaps the most important item in this bill in my view is the funding to the government of Turkey. Together with FRANK WOLF and CHRIS SMITH, I will be offering an amendment to cut some of these funds in order to send a clear message to Turkey that their ongoing genocide of the Kurds and that their treatment of their neighbors—Armenia and Cyprus—is absolutely unacceptable. This bill provides $320 million in loans to Turkey to allow it to purchase weapons and $46 weapons and $46 million in economic aid in the form of cash transfers to the Turkish Government. It is hypocritical, it seems to me, that our Nation, the freest ever, should be helping to prop-up and arm a government that the State Department has repeatedly cited for gross and worsening violations of human rights. As I said, at the appropriate time I will be offering an amendment to cut aid to Turkey.

I am very pleased, however, that the report to this bill makes clear that the committee continues to strongly support funds to bring together the two communities in Cyprus, which have been separated for over 20 years following the Turkish invasion of the island.

Another grave concern I have with this bill is the retreat on funding for voluntary family planning programs. To understand this concern, I would like to ask one question, ''Do you think the quality of life for people on Earth, including Americans, will be better or worse when the global population is double what it is today?''

If we do not take action to provide couples with the means to plan the number and spacing of pregnancies, the world's population will double by 2050. This will put huge pressures on food and energy supplies and the environment, not to mention the political instability that will be created by huge numbers of young people in the developing world. Adequate funding for bilateral and multilateral voluntary family planning programs today helps

to ensure that our children and grandchildren will live in a safer more prosperous world. I encourage Members to keep that in mind when an amendment is offered later by Rep. SMITH of New Jersey to effectively eliminate our multilateral population program and hamstring our bilateral program so the most effective family planning providers cannot receive U.S. funds.

This bill addresses, as best it can given the budget squeeze, the need to help other nations conserve and protect their environments. AID has for a number of years, been focusing resources on protecting the biodiversity in areas like South America, central Africa, and Papua New Guinea. I strongly support this ongoing effort.

I am also very supportive of the continuing work of the Global Environmental Facility—the GEF—which is the environmental lending program, of the World Bank. I think the best way to describe the GEF is that it is a fund that helps developing nations help themselves in ways that help us. The GEF lends funds to developing nations for environmental projects that address the loss of forests and species, ozone depletion, and pollution of international waters. Although the bill cuts the U.S. contributions to the GEF nearly in half, this level of U.S. participation is essential to ensure that other donors continue to participate. In the next 4 years, Japan has pledged $500 million and Germany has pledged $240 million. I strongly support our contribution and oppose any effort to cut it further on the floor.

This bill also puts at a high priority the democratization and development of free markets in nations of the former Soviet Union, particularly Armenia. Armenia has a young, but fully functioning democracy that is far ahead of its neighbors in privatization. This bill provides funds for both humanitarian assistance for Armenia and for long-term development that will, coupled with an end to the blockades imposed by its neighbors, ultimately make Armenia a self-sufficient country. The State Department plans to end assistance to the NIS countries before the end of the century. Assistance, like that to Armenia, is essential to set them on the right track and ensure that they will develop sufficiently to be able to stand on their own in the near future.

I am also very pleased that this bill continues to meet our Nation's commitment to the Camp David accords. Both Israel and Egypt are fully funded in this bill, as they should be. This bill helps fulfill our commitment to Israel's keeping a qualitative military edge over its neighbors as well as rewarding those who are willing to take reasonable risks to pursue peace.

Finally, I would like to commend the staff of the subcommittee for their excellent and tireless work with Members and their staffs to find common ground on what are often very difficult issues and to bring this bill to the floor today. Thanks to Charlie Flickner, the new clerk who the chairman was fortunate enough to lure away from the other body, and to John Shank and Bill Inglee of the subcommittee staff, and to Nancy Tippines, the chairman's very able associate staffer. And special thanks to Lori Maes, who is the institutional memory on the subcommittee and a real professional.

Also thanks to Terry Peel the minority staff whose knowledge of this bill was essential to our getting to this point today. I also want to commend the associate staff of the members of the subcommittee including Tripp Funderburk, Bill Deere, Ann Campbell, Chris Peace, Martha Harrison, Jim Doran, Jerome Hartl, Kathleen Murphy, Rep WILSON's very able and accommodating staffer, Steve Marchese, who grew up in Arlington Heights which is in my district, Carolyn Bartholomew, and Nancy Alcalde.

Mr. Chairman, I thank Chairman CALLAHAN and urge Members to support this bill.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD], another distinguished member of the subcommittee.

Mr. PACKARD. Mr. Chairman, I have the distinct pleasure and privilege of serving on this subcommittee with the chairman, the gentleman from Alabama [Mr. CALLAHAN], and the ranking minority member, the gentleman from Texas [Mr. WILSON], and I find that they have crafted a very, very good bill, and I would like to recognize them for that effort.

I also recognize the staff and all of their hard work that they have done, as well.

Mr. Chairman, I rise in strong support of the fiscal year 1996 foreign operations appropriations bill. This bill cuts 11 percent or $1.5 billion from fiscal year 1995 levels. It represents a $2.8 billion cut from the President's request. And more importantly, this bill continues the Republican transformation and downsizing of Government that we in Congress promised back in November.

Mr. Chairman, this bill maintains many of our traditional foreign aid priorities such as humanitarian assistance and foreign military financing. In addition, this bill moves our foreign assistance program away from traditional bilateral aid which is ineffective and bureaucratic, and toward a more market oriented development which uses the private sector to promote economic growth.

Finally, Mr. Chairman, this bill includes no earmarks. This is a clean bill, it is one that puts this country on the right track toward a deficit-free future.

Once again, I wish to commend the chairman and the ranking minority member for their excellent work in crafting this very good and bipartisan bill, and I recommend all Members support it in final passage.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. LIGHTFOOT], a member of our panel.

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

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of the bill.

Let me begin by commending the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] for their hard work on this legislation.

A foreign aid bill is neither an easy nor popular bill to bring to the floor of the House for a vote. But Mr. CALLAHAN and Mr. WILSON have worked in the bipartisan tradition of the committee to develop a bill we should all support.

Mr. Chairman, I would like to begin by discussing the administration's attitude throughout this year's foreign aid debate. The administration's budget proposal did not reflect the fact foreign assistance spending must also contribute toward our goal of a balanced Federal budget. Further, the administration, as well as a number of special interest groups, have convinced themselves that if the American people just understood the foreign aid program, they would support increased foreign aid. This is a dangerously misguided view.

That misguided belief apparently is fostered by a University of Maryland poll on American attitudes toward foreign assistance. As someone who has read and interpreted polls from time to time, I suspect the University of Maryland's poll conclusions would change dramatically if, for example, specific domestic programs were offered up as the funding source for increased foreign aid.

In addition, a number of ambassadors have visited with me this year and expressed concern that Republican foreign policy means a return to isolationism. In light of Anthony Lake's speech equating a reduction in foreign aid with back door isolationism and Ambassador Albright's equating opposition to increasing the number of peacekeeping operations with membership in the ''Flat Earth Society,'' it is clear the administration has deliberately orchestrated this climate in order to draw attention away from its own pathetic foreign policy record.

Now let me turn to this year's bill. Despite the bipartisan work of the committee, I believe the bill does reflect the priorities of the new majority. The emphasis of the bill is on export promotion activities, a continued commitment to supporting Israel, and a leaner more efficient agency for international development.

There are two aspects of the bill which I would like to briefly discuss. The first concerns our continued support for export promotion programs.

I believe the export assistance agencies fulfill a very important role in advancing American foreign policy. They

are not corporate welfare. As you know, our three export assistance agencies support projects in parts of the world where commercial institutions are reluctant to participate. They also help level the playing field for American business in the global market.

Neither Chairman CALLAHAN nor I believe in corporate welfare. In fact, I do not believe we believe in any kind of welfare. But it is clear that foreign governments help their businesses compete in developing markets. In a perfect world it would be nice to reduce this type of funding. However, if we cut this funding we only succeed in harming American business abroad.

Second, I think we are getting to the point where we need to think seriously about the future of bilateral aid programs. This bill and the budget resolution clearly indicate that future spending on foreign aid will continue to drop. We need to think about the most effective way to best spend those diminishing dollars.

I think the best way may be to shift from bilateral programs to using the leveraging power we have with the multilateral development banks.

Secretary Rubin and his staff have once again done an excellent job in demonstrating the utility of our funding the MDB's. As you know, the funds we appropriate as part of our previously negotiated share of MDB financing results in exports many times larger than our annual contribution.

Every dollar of our MDB contribution leverages into $22 in total MDB lending. Additionally, we must continue to contribute to the MDB's if we are to continue to play a leadership role in the management of the individual multilateral banks.

In closing, let me again commend Chairman CALLAHAN and Mr. WILSON for bringing to the floor a good bill. I also want to acknowledge the fine work of the staff in getting us here.

I urge all my colleagues to support this bill.

□ 1745

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

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

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman's courtesy in yielding this time to me, and I rise in support of the legislation and to commend Chairman CALLAHAN and the gentleman from Texas for the fine job they have done under very trying circumstances. I also rise to express my strong support for maintaining the integrity of section 907 of the Freedom Support Act which sanctions Azerbaijan for its blockade of Armenia and Nagorno Karabagh. I am extremely concerned about one provision—in this bill which would gut section 907. The purpose of section 907 is specifically to prohibit direct United States Government assistance to the Government of Azerbaijan until Azerbaijan ceases its blockade of Armenia.

I want to be clear about this: Section 907 prohibits direct government to government aid. It does not deny United States humanitarian aid to Azerbaijan, as the bill's language would lead us to believe. As a matter of fact, as of March 31, 1995, Azerbaijan has received $61.8 million in incountry, United States humanitarian assistance through nongovernment organizations and private volunteer organizations.

Section 907 states:

> United States Assistance under this or any other act (other than assistance under Title V of this act) may not be provided to the government of Azerbaijan until the President determines, and so reports to Congress, that the government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno Karabagh.

To date I am not aware that the President has filed a report with the Congress indicating that the blockade is being lifted.

The Azerbaijan blockade against Armenia and Nagorno Karabagh is now in its 5th year and it has made Armenia the poorest of the 15 former Soviet Republics.

According to United States AID's 1995 country profile of Azerbaijan, Azerbaijan continues to enforce a complete rail, road, and fuel blockade of Armenia throughout its territory, effectively cutting off fuel supplies and humanitarian supplies.

As a result, the blockade has forced a shut-down of almost all Armenian industries.

In fact, as many as one-third of Armenia's 3.6 million people have fled the country because the winters are unbearable and the factories stand idle.

Lifting the ban now would only encourage Azerbaijan to resist a peaceful solution to the Karabagh conflict and keep their blockade in place. The effort in the bill to weaken United States law that restricts United States aid to Azerbaijan represents a retreat from the principal position adopted by this body in 1992 that Azerbaijan must make progress towards peace by lifting its blockade. Congress would send the wrong message now by moving to weaken this restriction when the Azerbaijan Government in more than 2 years has failed to act on the United States demands.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KNOLLENBERG] a member of the subcommittee.

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

Mr. KNOLLENBERG. Mr. Chairman, I rise to express my strong support for this bill which reflects the subcommittee's careful crafting and compromise. I particularly wanted to salute the gentleman from Alabama [Mr. CALLAHAN], the chairman of the full committee, the gentleman from Louisiana [Mr. LIVINGSTON], and of course the gentleman from Texas [Mr. WILSON] who has been a strong advocate for bringing together this compromise. It deserves bipartisan support. It is not a Republican idea, it is not a Democratic idea, it is an American idea.

H.R. 1868 recognizes the fiscal situation we face and reduces the amount of money that we spend on foreign assistance. But H.R. 1868 also reflects our continued belief in the importance of maintaining our role as a leader in global events.

This bill does not blindly slash foreign aid. We make some serious cuts that reflect careful consideration and the review of every program. We have eliminated and reduced funding to those programs that have failed to justify continued support.

Foreign aid is a crucial component of our foreign policy. With the end of the cold war, there exists a sentiment in our country to place foreign affairs on the back burner and focus on domestic problems, and I admit we cannot ignore the domestic problems of crime, health care, education, and the economy, but I believe that recent events in the former Soviet Union, North Korea, and Bosnia illustrate that America must not insulate itself from the international community.

Faced with a national debt that is strangling our economy, Congress is operating under severe pressure to reduce spending and rightfully so. But we must work toward these goals as the world's only superpower and the sole proprietor of democracy. We have reduced foreign aid in this bill but we have not eliminated our ability to participate in the world.

Foreign aid, which makes up less than 1 percent of our Federal budget, is a good investment and has benefited our interests around the globe by furthering the development of economic and political stability in the international community.

H.R. 1868 allows us to continue to remain active in world event while it reflects our budgetary constraints.

I support this bill very strongly, and I urge my colleagues to do likewise.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to comment on three issues that will come up in the context of the fiscal year 1996 foreign aid appropriations bill. First is the Humanitarian Aid Corridor Act. This is a provision in the bill that would bar U.S. assistance to countries that bar the delivery of U.S. humanitarian aid to another country. The Republic of Turkey, a major recipient of United States assistance, has maintained a blockade on its neighbor Armenia. Asking our allies to allow American humanitarian assistance to reach its intended recipients is a reasonable condition for U.S. aid, and any country that fails to abide by this basic condition is undeserving of our aid. This provision was approved by the Foreign Operations Subcommittee, and

was part of the foreign aid authorization bill which has already passed the House. The Senate Foreign Relations Committee has also adopted this provision. Any attempt to remove the Humanitarian Aid Corridor Act from the bill must be opposed.

Second, Mr. Chairman, I support conditional aid to Turkey on compliance with human rights. Our colleague, the gentleman from Illinois [Mr. PORTER] a member of the Foreign Ops Subcommittee and the cochairman of the Armenian issues caucus, is planning to introduce an amendment that would cut assistance to Turkey until that country makes substantial improvements in its human rights record. The Porter amendment is intended to draw attention to Turkey's immoral and illegal blockade of Armenia, the Cyprus issue, the rights of the Kurdish people, and the restrictions on free expression in Turkey. I strongly support the Porter amendment.

Third, I would urge the House to maintain the economic sanctions on Azerbaijan until it lifts its blockade of Armenia. Language was inserted into the foreign aid appropriations bill which severely weakens section 907 of the Freedom Support Act, which became law in 1992. This provision prohibits government-to-government assistance between the United States and Azerbaijan until that country lifts its devastating blockade of Armenia. Given that the Azerbaijani Government has not made any progress toward lifting its blockade, as was previously stated by my colleague, the gentleman from Indiana [Mr. VISCLOSKY], there is no basis for changing the law, and Azerbaijan should not be rewarded for its intransigence. Indeed, the law has not prevented humanitarian aid disbursed by nongovernmental and private voluntary organizations from getting to Azerbaijani refugees. Our colleague PETER VISCLOSKY of Indiana, a member of the Appropriations Committee and also the Armenian issues caucus, may offer an amendment to strike this provision or to explicitly forbid direct governmental assistance to Azerbaijan. The Visclosky amendment would prevent the gutting of the existing law, and I urge support for that amendment.

Finally, Mr. Chairman, Armenia has made tremendous strides toward democracy and a market economy since the breakup of the Soviet Union despite the relentless hostility of its neighbors, Turkey and Azerbaijan. Turkey and Azerbaijan, in my opinion, continue this blockade illegally. The United States should support countries that share America's values and not give encouragement to those countries that oppose our principles so flagrantly.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FORBES], one of the hardest working new Members of this Congress that has come in this year to join us. We are blessed that he was also put on our subcommittee, and he has been a valuable contributor, a man who works hard, a man who understands this bill as much as anybody in this Congress.

Mr. FORBES. Mr. Chairman, I thank the gentleman for those wonderful words.

I rise in support today of the foreign operations bill, and I compliment the ranking minority leader of this great committee and my distinguished chairman for all their hard work.

Mr. Chairman, I would say that this document is a responsible document, to say the least. There are many across the country who question this Nation's commitment to foreign operations and foreign assistance, and I have to say to those people who think that we should be spending more around the globe that they will be disappointed because this document is a responsible document that blends a responsible approach for this Nation as a leader in making sure that we help children, that we make sure that those who are so dedicated to freedom and democracy around the world have appropriate assistance, but it does not allow us to move around and perhaps be the world's policemen.

So I compliment the committee and the committee staff particularly for their help in crafting what I would say is a most responsible document. It calls for $11.9 billion. It is a responsible document that results in the lowest spending in foreign operations in 20 years. It is in line with this Nation's ability to move toward a balanced budget. It is $200 million below the budget authority. It is $400 million below the authorizers' document, and, as I said, it is a very responsible spending plan that is in line with this Nation's responsibilities to its allies and to the preservation of democracy and freedom around the world. This document preserves funding for peace, strategic allies like Israel and Egypt, and helps to move forward on the Middle East agreements, and addresses new priorities for this Nation in counterterrorism and drug interdiction.

By zeroing out or severely reducing funding for soft loan windows at the multilateral banks, we are moving away from the statist model of development in favor of a more free market approach. On the other hand, the bill creates a new child survival account, as I have referenced, and ensuring that nearly half a billion dollars will be spent on basic needs for children rather than the nebulous and often wasteful, quote, development assistance account. It maintains and even increases funding for export assistance, something that is vital to this Nation's economy and where the small business sector looks for new opportunities. It enhances U.S. competitiveness abroad and certainly will result in the creation of jobs here at home.

The bill maintains enough funding for the United States to carry out what I said is its proper foreign policy obligations and ensures that national security functions as the world's leader continue. It brings us back from the brink of becoming the world's policemen and nanny to a more responsible place for this Nation as the guardians of peace, freedom, and democracy around the world.

□ 1800

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] has 5 minutes remaining, and the gentleman from Texas [Mr. WILSON] has 15 minutes remaining.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Chairman, I want to thank the committee and its chairman for rejecting any attempt to close down the Overseas Private Investment Corporation [OPIC]. I support downsizing Government more than anyone, but abolishing OPIC will not further either of these goals.

OPIC is not some foreign boondoggle program, as some have charged. OPIC provides loans and political risk insurance to American companies doing business abroad. It does not do this for free. It charges market rate for its services, which is how it makes money. For example, recently OPIC charged an 11.9-percent financing rate for a company that is constructing a powerplant overseas. If it was not for OPIC, that company would have had to purchase $500 million worth of goods from Japan, rather than from the United States.

Unlike almost every other Federal agency, OPIC actually takes in more than it spends. In fact, it showed a net income of $167 million last year, and it writes a check at the end of each year returning most of its profits to the Government. Since 1971, OPIC has contributed almost $2 billion back to the Federal Government to reduce the debt.

OPIC is a successful business because it negotiates on a government-to-government basis. Its services are simply not available in the private sector. OPIC does not cost the taxpayers anything, and it actually makes money for the Government, so its elimination would actually increase the deficit, not reduce it. In my opinion, OPIC is an example of how a Federal agency should be run. Its elimination would hurt U.S. interests and result in higher deficits.

I want to thank the committee and its chairman for fighting to keep it, and also I look forward to working with the chairman to make sure we stem the tide of any elimination as this process goes on.

Mr. WILSON. Mr. Chairman, I yield myself 30 seconds to ask a question of the gentleman from Nebraska [Mr. CHRISTENSEN]. I would like to ask the gentleman from Nebraska to reiterate what he said. I think many Members of this body do not understand that OPIC actually returns more money to the Treasury than we appropriate for it.

Mr. CHRISTENSEN. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. WILSON. As well as creating jobs, as well as positively affecting the balance of payments, as well as creating more taxpayers.

Mr. CHRISTENSEN. It does the things that the private sector cannot do, because the private sector does not have an arm where it will take political risks. OPIC takes that risk for the American enterprise, for the entrepreneur, for the corporation, loaning out at market rates and returning back to the Federal Government the cost.

Mr. WILSON. I thank the gentleman.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

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

Mr. MENENDEZ. Mr. Chairman, I thank the distinguished ranking member for yielding.

Mr. Chairman, in my absence a lot has been said about the amendment that I have offered and which the Committee on Rules made in order, which I want to publicly thank the gentleman from New York [Mr. SOLOMON] who, in his wisdom, along with the members of the Committee on Rules, agreed to have this amendment made in order, particularly in view of the serious nature and the timing of what is involved.

For someone to say that it is a rather narrow focus about the issue of the nuclear power plant in Cuba, they should have seen the 60 Minutes program 2 weeks ago. It is not a narrow focus.

If we look at the September 1992, GAO report, for those of us who have been following this for quite some time, we know this is a very serious issue, and not just to those who follow Cuba policy vis-a-vis the United States and Cuba.

This is what this report said about the nuclear power plant. It said that reports by a former technician from Cuba examining with x rays weld sites believed to be part of the auxiliary plumbing system found 10 to 15 percent of those were defective; that the operation of this reactor would be criminal. In fact, it says, for those of you who are Members from Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, and Washington, DC, according to a study by the National Oceanographic and Atmospheric Administration, that summer winds could carry radioactive pollutants from a nuclear accident at that powerplant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry it as far northeast as Virginia and Washington, DC. That affects the lives of hundreds of millions of Americans and in fact it makes it so imperative that we consider this amendment and move forward on it. We do not need to be supplying money to countries who want to permit another Chernobyl-like accident 90 miles away from the United States. That is why I appreciate the amendment being considered.

Mr. WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I would simply like to take a second to respond to the comments of the gentleman who just spoke. I very much admire the way the gentleman attends to the needs of his district and his constituents and his substantive concerns. But I want to make clear something which I said earlier with respect to that nuclear power plant in Cuba, since he was referring to me in his comments.

As I said earlier in my exchange with the gentleman from Florida, I very much agree with people on the substance of the question of the nuclear power plant in Cuba. I think it should not be built. I think it is very bad business. I think the Russians should not be financing it in any way, shape, or form. There is no disagreement whatsoever on substance.

I would simply point out that the GAO report to which the gentleman referred was a 1992 report. My understanding is that that nuclear operation has been mothballed since 1993, and it is quite clear that the administration shares the gentleman's concerns about that plant and is trying to find the best way to see to it that it does not proceed and is not ever put in place. The only question before us is what the best way is to discourage that. The only question is how do you prevent it from actually happening. That is what is in dispute here.

So, with all due respect to people's concerns about it, which are legitimate, I would simply suggest that it is occasionally possible to be correct in terms of one's goal, while being very mistaken in terms of the means that one chooses to get to that goal. Sometimes you have a law of unintended consequences, which means that what you start out to try to stop, you in fact create because of inadvertence. I do not want that to happen here, which is why I am concerned that this amendment is considered on this bill, when I think it ought to be considered by another committee that knows a whole lot more about it than this committee does.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I want to tell the gentleman that I agree wholeheartedly with you. We would not want to mislead anybody in this House or this country that we are in support of Russia affording this opportunity to Cuba. We think his destination is right, he is just on the wrong bus to get to that destination.

I agree with you, the gentleman should have done it in the authorization bill, not in this bill. So I agree with you, but I want everybody to know that I do not disagree with the destination. We do not want that plant in Cuba under any circumstances, and we do not want Russia contributing to that.

Mr. OBEY. Mr. Chairman, reclaiming my time, none of us do. It could be a significant threat to the security of the United States. Everybody recognizes that. The question is, what is the best way to see to it that it never happens, and I think to achieve that we all need to work together on another vehicle.

Mr. WILSON. Mr. Chairman, if the gentleman will yield, does the ranking member agree with me that as a matter of national pride and national dignity and probably of politics in Moscow, that if the United States tells Russia they cannot do it, then they have to do it?

Mr. OBEY. Mr. Chairman, I know how we would react as Americans. If somebody tells America, ''You cannot do something or we are going to do X to you,'' that is when the Americans have the fur on the back of their neck go up and they say, ''Tough, buddy, we are going to do it.'' That is human nature. So the question is how do you handle this in a way that people do not do dumb things because they are following emotion rather than logic.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding.

Mr. Chairman, I rise in strong support of this committee's proposal, and I am especially grateful for the work that Chairman CALLAHAN and Chairman LIVINGSTON have done to establish a new child survival account. Since I have been in Congress, since the early 1980's, there has been a bipartisan effort to preserve and fence off money for immunizations and for oral rehydration money, which has literally saved millions of children because of that very modest investment.

I have witnessed during the 1980's two mass vaccination days in Central America and saw thousands of kids vaccinated against preventable diseases like diphtheria, tetanus, and other preventable diseases. Yet we find that millions of kids still die. We have still not brought the blessings of the child survival revolution to all those to whom we could bring it, and this account will go very, very far in trying to advance that, especially in times of budget austerity.

I would just remind Members that when we consider the authorizing bill, I had offered language that was accepted by the committee to fence off money, to earmark money, that would be used for child survival activities. It passed in a bipartisan way in committee, and a soft earmark has been retained on the floor of the House.

Let me just say why I think that is so important. When Brian Atwood testified before our committee 2 days before our markup, he said that a 30 percent cut in USAID's child survival program, and there was no cutting in the program, it was a cut in DA, would

mean that more than 4 million children will likely not be vaccinated, greatly heightening their risk of death from severe illness.

He went on to say if there was a cut across the board in DA, development authority, that that would automatically translate into a cut for child survival. It is a matter of who manages the cuts.

Mr. Chairman, I think it is important for us to say we do not want to see any of these cuts. But if cuts have to be, children should come first.

I again want to salute the gentleman from Alabama [Mr. CALLAHAN] for making sure that children do indeed come first and are protected from cuts.

Mr. Chairman, foreign aid has its share of critics, and perhaps more than its share. This fact was reflected in our recently enacted foreign relations bill, which made significant cuts in foreign aid and was nonetheless subject to criticism in some quarters that it did not cut deeply enough. To some extent, the voters' distrust of foreign aid is warranted. In far too many cases, foreign aid has proved to be the ticket to the high life for corrupt bureaucrats in developing nations, while their people remain mired in poverty.

But let us be clear about what it is that people object to when they object to foreign aid. Everyone objects to corruption in the system. Many object to spending money on infrastructure projects in developing countries while money is running out for similar projects here at home. And many object to funding abortion and heavy-handed population control tactics. But what virtually no one objects to is the aid that goes directly to saving lives.

People are not skeptical about foreign aid because they believe that foreign aid has vaccinated too many children, fed too many starving people, or turned too many swords into plowshares. They are skeptical because they believe that foreign aid has paid for too many unnecessary government offices and limousines, or has been siphoned off by yet another corrupt politician. So the best political solution is also the best policy: accept the reality that resources are limited, cut the limousines, and save the food and medicine.

The intent of Congress in preserving child survival funds in an era of budget austerity is emphatically to save the funds for medicine, micronutrients, and vaccine. We intend to keep such funds from being siphoned off, either to luxurious perks, or to forms of foreign aid that lack a measurable positive impact on child morbidity.

Even in this age of advanced medical progress, this world still witnesses the preventable deaths of millions of children. We still have:

More than a million deaths per year due to measles, according to UNICEF.

Still over 100,000 cases per year of polio, despite large strides toward eradicating it, according to Dr. Jong Wook Lee of the World Health Organization.

Half of all child deaths are caused by either diarrhea or pneumonia, according to UNICEF. Yet these deaths are highly preventable: by early detection and antibiotics, in the case of pneumonia, and by oral rehydration therapy, in the case of diarrhea.

Furthermore, the World Health Organization reports:

Over a million child deaths per year from malaria; 17 million cases of river blindness and elephantiasis; 25,000 new cases per year of African sleeping sickness; 10–12 million case worldwide of leprosy, or Hansen's Disease.

Unfortunately, when Congress does not speak clearly enough on how the funds it appropriates for child survival are to be spent, they are sometimes spent in ways that do not put child survival first. In a hearing before the International Relations Committee earlier this year, Brian Atwood, Administrator of AID, told us that funds designated for child survival had been drawn down for emergency relief, while population funds had not been similarly touched. The operating assumption seems to be: population means population, but child survival means a general humanitarian fund.

Congress must state clearly that child survival means child survival—not population control or anything else. Whatever the proper place of family planning in U.S. foreign aid, it should not operate at the expense of child survival. Family planning implicates fundamental disagreements about morality, family life, and, in the case of abortion, about life itself. But child survival is something that all of us, on both sides of the population and abortion issues, can support. Child survival can and should bring us together, whatever battles we may need to fight over other issues.

Unfortunatly, the Clinton administration is conspicuously absent from this broad coalition in favor of putting children first. At a recent hearing, Mr. Atwood explained how he would manage the one-third cut in Development Assistance funding:

A 30-percent cut in USAID's child survival program would mean that more than 4 million children will likely not be vaccinated, greatly heightening their risk of death or severe illness from such preventable diseases as measles, whooping cough, and diphtheria.

But there is one fact that puts Mr. Atwood's remarks in an alarming light. Our bill does not cut child survival. It cuts foreign aid overall, while attempting to protect child survival. Mr. Atwood, it seems, was not expressing a fear—he was issuing a threat. He was saying, if you cut Development Assistance, we will take that cut out of child survival.

Mr. Atwood continued:

Oral Rehydration Therapy [ORT] prevents an estimated 1 million deaths a year due to acute diarrhea. Usage rates for ORT in all areas of the world have risen to 40–65 percent. Despite the steady growth in ORT use, 3 million children still die from diarrheal disease annually. A cut of 30 percent in child survival resources would likely mean at least 100,000 children's lives would be lost each year for lack of this cheap and simple treatment.

Chilling facts indeed—especially when you consider that such consequences could easily be avoided if USAID were to concentrate its Development Assistance cuts on something other than child survival.

This is why Congress must not send up language that gives USAID any leeway on child survival.

The Child Survival Account that the Appropriations Committee's bill would establish is a step in the direction of broadly supported humanitarian foreign aid. These funds will go, for instance:

Toward oral rehydration therapy, which saves more than a million lives a year;

Toward vaccination, so that the effective extinction of polio and measles can be brought about, as has already been done with smallpox;

Toward eliminating Vitamin A and iodine deficiencies, thereby preventing blindness, illness, and death for untold numbers of children in the developing world; and

To UNICEF, which has a long record of saving children's lives.

UNICEF's research shows us how far we have come—and how far we still have to go—in fighting childhood diseases and improving childhood nutrition. Consider the case of polio.

Worldwide estimates of polio cases have fallen from 400,000 in 1980 to just over 100,000 in 1993. But at the same time, there are still 68 countries where the polio virus is crippling children. Carrying out a vaccination program in places where outbreaks are still occurring can be expensive. Furthermore, the perception that polio is almost extinct makes it hard to generate the political will to make those expenditures, especially when other diseases seem to pose a much graver threat. Yet if the final extermination of polio is not achieved, the disease could mount a mighty comeback when a generation of unvaccinated children starts to grow up. Funds for UNICEF can help prevent this vicious circle from becoming a reality.

Consider measles. Not as terrifying as polio, perhaps—yet UNICEF estimates that it causes 1 to 2 million child deaths each year, and often leaves even its survivors with severe malnutrition. Like polio, measles can be eliminated—provided the funding for vaccination continues even after the disease becomes rare. In 1994, Indonesia held a national immunization day targeted at both polio and measles, but health authorities there had to scale it back to polio alone due to inadequate funds. Indonesia is therefore at greater risk of a resurgence of measles.

Consider child nutrition. Vitamin A is increasingly recognized as a low-cost way to reduce child mortality by between a quarter and a third in many developing nations. UNICEF calls vitamin A the most cost-effective of all interventions for children. One study showed that malnourished children with adequate vitamin A were less likely to die than well-nourished children who were deficient in vitamin A. Consequently, UNICEF is undertaking a campaign to promote the fortification of common foods with vitamin A, and to make vitamin capsules available in areas of acute need.

I have both high hopes and great fears about UNICEF. High hopes that it will continue as a pathbreaker in child survival projects, as it has done for decades. And great fears that it will veer from its core mission into areas such as family planning, which are dealt with by other U.N. agencies, and which tend to fracture the coalition that supports UNICEF.

Over the years, liberals and conservatives alike have bought UNICEF greeting cards, encouraged their children to trick or treat for UNICEF, and even supported larger and larger contributions over the years by the United States. Continuation of this unusual consensus is most unlikely if UNICEF ventures into the most morally landmined field in all of foreign aid.

The Subcommittee on International Operations and Human Rights, which I chair, will be holding oversight hearings on UNICEF. We hope and expect to find through these hearings that UNICEF has remained faithful to its

core mission of fighting child morbidity and promoting child health. In that regard, I welcome the declaration on family planning that UNICEF makes in its 1995 report called The Progress of Nations. That declaration makes clear that under the division of labor that characterizes U.N. agencies, UNICEF's mission of improving the well-being of children and women is different from that of the agencies that promote family planning.

The core mission of UNICEF, and other important child survival activities, will be helped greatly by the child survival and disease program fund set up by this bill. This fund is foreign aid as it was meant to be. This Congress is making cuts, but it is not making them blindly or callously. It is cutting waste and extravagance, while preserving the heart of foreign aid. I commend the appropriators for their work, and I urge a ''yes'' vote on the foreign operations appropriations bill.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to respond to the gentleman from New Jersey, and give him a lot of credit, because he, along with the gentleman from Virginia [Mr. WOLF] and the gentleman from Ohio [Mr. HALL] came and suggested that we do something to ensure that as we dramatically downsize foreign aid, that we do not preclude the ability of the administration to have a sufficient amount of money to feed starving children, and to provide the immunizations programs that will help eradicate polio. So I compliment the gentleman.

Mrs. MALONEY. Mr. Chairman, I rise in support of the foreign operations funding bill.

I do so with the view that this is not a perfect bill. In many respects, it represents a step backward in U.S. commitment to promoting development and democracy around the world.

I am concerned about the 34-percent cut in African aid. This is bad public policy on humanitarian grounds. These cuts also make no fiscal sense. Investing a small amount in African development today will save many more tax dollars in emergency intervention in the future.

I am also concerned that the bill contains language allowing for continued United States aid to Azerbaijan, despite that nation's unconscionable blockade of Armenia. Allowing our allies to block U.S. humanitarian assistance represents a complete undermining of our foreign policy objectives.

Despite these problems, the bill contains many important provisions, and I want to thank Chairman CALLAHAN and my good friend DAVE OBEY for their work.

I strongly support the inclusion of $3 billion in economic and military assistance for Israel. As our only democratic ally in the Middle East continues to travel down the historic—and often dangerous—road toward peace, it is imperative that our country ensure Israel's economic viability and military advantage in the region.

I am pleased that the bill maintains $15 million for Cyprus. It has been two decades since the brutal Turkish invasion of this beautiful island nation. This relatively small amount of money goes a long way toward helping the Cypriot people with critical economic development and peace-enhancing activities.

I also want to convey my strong support for the funding for the International Fund for Ireland. President Clinton and the Congress have much to be proud of with respect to the profound and peaceful changes in Ireland. We therefore must renew our commitment to the heroic Irish people.

I ask my colleagues to support this bill. It is not perfection, but it is very important nevertheless.

Mr. ROTH. Mr. Chairman, this legislation poses a dilemma. Some of its provisions, such as the funding for export-related functions, are vitally necessary for our economic growth and job creation.

The bill continues current levels of funding of the Export-Import Bank, which helps finance U.S. exports.

The bill also provides $100 million for the Exim Warchest, which is used to counteract unfair trade practices by foreign governments. This, too, is essential for our competitive position in global markets. Further, the bill provides a substantial increase in the operating levels for the Overseas Private Investment Corporation [OPIC].

This is consistent with our authorizing bill last year, in which we tripled OPIC's authorizing levels to $9.5 billion. Let me point out that OPIC does not use any taxpayer funds—it pays for itself and even makes money for the Government—last year earning $167 million. OPIC also maintains reserves to cover its liabilities, with $2.3 billion currently on deposit in the Treasury.

None of these funds come from the taxpayer. Everything was earned through OPIC's business activities. The truth is, this appropriations bill simply allows OPIC to use the money that it has already earned on its own.

The bill also provides funds for the Trade and Development Agency, which generates U.S. exports by funding the engineering and feasibility studies for major construction projects overseas.

Our subcommittee's oversight hearings have shown that TDA generates $25 in exports for every $1 it spends. That is an excellent return on our investment. Therefore, I am concerned that this bill cuts TDA by $5 million. I hope this provision can be revisited later.

The importance of each of these export programs is underscored by the latest trade data, which came out yesterday. The overall deficit in April was $11 billion, the worst month in 3 years. The deficit in goods was $16 billion. That is $1.7 billion worse than in March.

In April, our exports actually went down by nearly a billion dollars, while imports went up by $700 million.

In other words, our trade deficit, which last year was the worst in our history, is getting even worse. The bottom line is, if our exports do not recover, we will certainly fall into a recession.

In recent years, exports have provided most of our economic growth, as much as 80 percent. Clearly, we need the export programs in this bill.

Therefore, I commend the Gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Louisiana [Mr. LIVINGSTON] for these vital job-creating provisions. Unfortunately, other parts of the bill represent business as usual in doling out foreign aid.

The bill makes some cuts in foreign aid, but not enough, in my judgment. AID still gets $5.7 billion, including $530 million in operating expenses. Why does it cost a half a billion dollars to run a $5 billion program? Over the past 10 years, AID's programs have gone down 23 percent, but its operating costs have gone up 40 percent.

It makes no sense that operating costs go up when the overall program is going down. In particular, I oppose the $29 million which is provided for AID downsizing. What sense does it make to appropriate more money to shut down missions and reduce the Agency? That represents the triumph of bureaucratic thinking over common sense.

Yes, we absolutely should cut down AID, but let us not give the bureaucrats even more money to carry this out. Many amendments will be offered to this bill.

Some will propose further reductions in foreign aid. Some will propose ill-considered reductions in support for our exporters. And some would actually increase foreign aid spending. The fate of this bill hangs in the outcome of these amendments.

I urge my colleagues to join me in supporting the export-related provisions and in making further reductions in foreign aid.

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

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

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCKEON] having assumed the Chair, Mr. BOEHNER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1868), making appropriations for foreign operations export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 483, MEDICARE SELECT POLICIES

Mr. BILIRAKIS submitted the following conference report and statement on the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–157)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483), to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:

''(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

''(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

''(B) subject to paragraph (2), during the 6½-year period beginning with 1992.

For purposes of this paragraph, the term 'State' has the meaning given such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

''(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age-adjusted sample populations. The study shall be completed by June 30, 1997.

''(B) Not later than December 31, 1997, the Secretary shall determine, based on the results of the study under subparagraph (A), if any of the following findings are true:

''(i) The amendments made by this section have not resulted in savings of premium costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage).

''(ii) There have been significant additional expenditures under the medicare program as a result of such amendments.

''(iii) Access to and quality of care has been significantly diminished as a result of such amendments.

''(C) The amendments made by this section shall remain in effect beyond the 6½-year period described in paragraph (1)(B) unless the Secretary determines that any of the findings described in clause (i), (ii), or (iii) of subparagraph (B) are true.

''(3) The Comptroller General shall conduct a study to determine the extent to which individuals who are continuously covered under a medicare supplemental policy are subject to medical underwriting if they change the policy under which they are covered, and to identify options, if necessary, for modifying the medicare supplemental insurance market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting. By not later than June 30, 1996, the Comptroller General shall submit to the Congress as report on the study. The report shall include a description of the potential impact on the cost and availability of medicare supplemental policies of each option identified in the study.''.

And the Senate agree to the same.

TOM BLILEY,
MICHAEL BILIRAKIS,
DENNIS HASTERT,
BILL ARCHER,
WILLIAM THOMAS,
NANCY L. JOHNSON,
Managers on the Part of the House.

BOB PACKWOOD,
BOB DOLE,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

EXTEND MEDICARE SELECT TO ALL STATES FOR THREE YEARS

PRESENT LAW

The Omnibus Reconciliation Act of 1990 (P.L. 101–508) established a demonstration project called Medicare Select under which insurers can market Medicare supplemental policies (called ''Medigap'' policies) that are the same as other Medigap policies except that supplemental benefits are paid only if services are provided through designated providers. The demonstration was limited to 15 states and expired December 31, 1994. The demonstration was extended to June 30, 1995, in the Social Security Act Amendments of 1994 (P.L. 103–432).

HOUSE BILL

Medicare Select authority is extended to all states which wish to participate until June 30, 2000. The Secretary of Health and Human Services is to conduct a study of Medicare Select prior to 1998 to study cost, quality and access for Medicare Select compared to other Medigap policies. Medicare Select remains in effect unless the Secretary finds that Medicare Select has: (1) not resulted in savings of premium costs to beneficiaries compared to non-select Medigap policies; (2) resulted in significant additional expenditures for the Medicare program; or (3) resulted in diminished access and quality of care.

SENATE AMENDMENT

Same as the House bill except the extension is until December 31, 1996. The Secretary is to complete the study by June 30, 1996. The General Accounting Office (GAO) is to conduct a study on Medigap insurance and report to Congress by June 10, 1996. The report is to include: (1) an analysis of whether there are problems in the current Medigap system for beneficiaries who wish to switch Medigap policies without medical underwriting or pre-existing condition exclusions; (2) options for modifying the Medigap market to address any problems identified; and (3) an analysis of the impact of each option on the cost and availability of Medigap insurance, with particular reference to problems with Medicare Select policies.

CONFERENCE AGREEMENT

The conference agreement adopts the Senate amendment with the following changes: (1) Medicare Select is extended to all States for three years (until June 30, 1998); and (2) the GAO study is clarified to require analysis of all types of Medigap insurance by removing specific reference to Medicare Select. Reference to pre-existing condition exclusions is also removed as they are already prohibited under current law for Medigap replacement policies.

TOM BLILEY,
MICHAEL BILIRAKIS,
DENNIS HASTERT,
BILL ARCHER,
WILLIAM THOMAS,
NANCY L. JOHNSON,
Managers on the Part of the House.

BOB PACKWOOD,
BOB DOLE,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

ADJOURNMENT TO MONDAY, JUNE 26, 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

□ 1815

HOUR OF MEETING ON TUESDAY, JUNE 27, 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, June 26, 1995, it adjourn to meet at 10:30 a.m. on Tuesday, June 27, 1995, for morning hour debates.

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

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

[Mr. CLINGER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

[Mr. SKAGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SIGNS OF A RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, yesterday, the front page of the New York Times reported that some members of the Federal Reserve Board ''have publicly expressed concern that the economy is now in considerably worse shape than they had expected.''

Two days ago, Washington Post columnist James K. Glassman wrote: ''Don't look now, but the recession may already have started.''

Mr. Glassman wrote that the White House is going to try to convince voters that this is a Gingrich recession, but then he says this:

> Such a charge, of course, is nonsense, and it's hypocritical coming from a President whose budget plan isn't so different from that of his adversaries.

Are we in a recession now? Well, the economy lost 101,000 jobs in May. Single family housing starts are at a 2-year low. Unsold inventories have, in the words of the New York Times, risen sharply.

According to Bridgewater Associates, a respected Connecticut firm that measures the economy, retail sales are wretched and second quarter GDP growth is about minus 0.5 percent.

I have spoken at least twice on this Floor about our tremendous problem of underemployment.

If you talk to any of these college graduates who can only find work in fast food outlets or restaurants, if they can find jobs at all, then you would know what I mean. I am sure they would say we are in a recession.

Like all recessions, though, the average consumer will not notice the full effects of this one until several months after it starts.

Thus most people will not notice this one, according to most economists, until very late this year, but really more probably a few months into 1996.

What is the cause of this new recession, or if not a recession, at least this severe slowdown?

Well, I think most people would agree that our obscene national debt of almost $5 trillion and our continuing deficits, or losses, of almost $1 billion a day, are the main problems.

Congressman ARMEY, a PhD economist, says the fault lies with the huge tax increase passed by President Clinton and the Democratic Congress in 1993.

Lending credence to this view is John Mueller, chief economist for Lehrman Bell Mueller Cannon, Inc. The columnist Glassman says Mueller believes there is a lag time of 2 years between actions of the Federal Reserve Board and their effects.

There is also a similar lag time with most major legislation passed by the Congress, too.

Anyone who blames a recession or economic slowdown in the next year or so on Republicans in Congress is either forgetting or ignoring the obvious.

First, most of the real changes passed by the House have not been passed by the Senate or have not been signed by the President. Most of the actions by the House have not even yet taken effect or actually gone into law.

Second, despite all the publicity about so-called spending cuts, none of these will go into effect until the next fiscal year begins in October.

Even then, the cuts do not exceed the growth in some programs, and thus overall Federal spending continues to go up and will do so every year under the most conservative budget that has been proposed.

Obviously our economy is on thin ice. So, what should we do?

First, we need to drastically reduce the Federal regulatory burden. The most conservative estimates are that Federal regulations now cost our economy approximately $500 billion each year.

Second, we need to bring Federal spending under control, cut our losses completely, and even start paying off our national debt is the only way to really help the economy, and that is with uninflated dollars.

It is ridiculous that we cannot even balance our budget until seven years from now, at the least. If we balanced the budget right now, we would still be spending over $1½ trillion by just our Federal Government this year. We would not have a lean government, we would still have a fat, sassy government. A strong, active, vibrant government is what we should have for that kind of spending.

Third, we need to overhaul, and greatly simplify and reform our federal tax code. We should greatly downsize and decrease the power and cost of the IRS.

It is just crazy that our Federal tax laws are so complicated and convoluted. I am told that we waste at least $200 billion a year in time lost and expense incurred in IRS compliance costs, keeping records, filling out forms, and so forth.

Finally, we need to lower taxes at all levels. The average person—not the wealthy, but the average—pays about half of his or her income in taxes of all types, Federal, State, and local, sales, property, income, excise, Social Security, and so forth.

The least efficient, least economical way to spend money is to have Government do it, because there is no real incentive or pressure on Government employees to work hard and/or save money, as there is in the private sector.

Money left in the private sector creates 2 to 2½ times as many jobs as does money turned over to Government.

Times are good now for some people. But they could and should be good for everyone.

Our country could be booming beyond belief—people could be doing two or three times as good as they are—if we would do the four things I just mentioned: first, deregulate our economy; second, balance our budget and start paying off the national debt; third, greatly simplify our tax code and basically eliminate the IRS; and fourth, lower the tax burden on our people, at all levels, so they can spend their own money wisely instead of having bureaucrats do it wastefully.

We could be booming, Mr. Speaker, but because real change has not yet taken place, there are many signs that we are headed into a recession that has been produced by our own Federal Government.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

[Mrs. KENNELLY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

[Mr. SCARBOROUGH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

HISTORY OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, we will soon consider a farm bill that warrants an examination of the history of agriculture and a study of the lessons learned. There is linkage

between the modern American farmer and ancient Sumerian who worked the land between the Tigris and the Euphrates. Both were responsible, indeed farmers throughout history have been responsible, for their countries and the progress of civilization.

It has been said that in the last reckoning, all things are purchased with food. This was true in the cradle of civilization, and it holds true now.

Today American agriculture is this country's largest industry. Agriculture accounts for a full 16 percent of our current gross domestic product; 355 billion dollars' worth of food and fiber were produced this past year. That is more than any other industry.

And so it is especially important that we learn the lessons taught by the successes and failures of the past. History is awash with the remains of societies that failed to maintain their soil, who let it succumb to erosion, who let the channels that fed it get chocked with silt. The ancient city of Babylon, 2,600 years ago developed a productive agriculture. It allowed their civilization to grow to 17 million people and a remarkably diversified society. King Nebuchadnezzar even boasted that because he developed a great productive agriculture the rest of his society excelled. But eventually agriculture and farmers became a lesser priority in that country, and it ultimately failed. Farmers abandoned the farms and eventually the city collapsed.

Another example is the Promised Land of the Sinai Peninsula. Moses called it ''the land of milk and honey.'' Farm production and conservation were neglected and eventually only dregs of fertile soil remain at the bottom of narrow valleys.

But there are also successes. Societies with plans promoting farmers and farming survived and flourished. For the last 1,000 years, farmers in the French Alps with an eye toward conservation have terraced hillsides in a dramatic effort to prevent soil loss, resulting in continuously fertile soil, fertile agriculture, and abundant production.

□ 1830

In this country the Dust Bowl of the 1930's affected over 150,000 square miles of fields in areas of New Mexico, Texas, Oklahoma, Kansas, and Colorado. For 6 years, drought and blinding dust storms were constant. The fertile ground of much of the Great Plains was stripped and deposited in drifts over millions of acres. Farms were buried and families fled. The counties of the Dust Bowl lost nearly 60 percent of their population through migration.

The cause of this ecological disaster was largely the result of an overuse of the land. Following World War I, high grain prices enticed farmers to head for the Plains. But those high prices didn't last. As the wheat prices fell, the farmers became financially stressed and looked for short-term gain by planting more wheat. The long-term advantages of strip cropping, summer fallow and other conservation measures were abandoned. In fact, by 1930 farmers had planted three times as much wheat as they had in 1920. To a large degree, the extra planting was an act of desperation to survive. Soil conservation suffered.

The drought began in 1933; the overuse made the land vulnerable to the winds that followed in 1934. Farmers continued to harvest what little of their crops they could, often driving their tractors in conditions so blinding that they couldn't see their radiator caps, much less the fields they worked as the fertile topsoil blew away. When wheat prices hit bottom during the Great Depression, more and more farmers abandoned their farms.

In 1933 President Roosevelt started a Federal program to limit production in order to help keep farm prices stable and encourage special farming techniques like contour plowing, crop rotation, and terracing that kept soil on the farm and kept it fertile. However, prices stayed low and poor farmers continued to leave the land. In 1936 the Agriculture Adjustment Administration was created to promote soil conservation by issuing checks to farmers who adopted acreage reductions and wind controls on their farms.

In the United States Congress we're now engaged in a great agricultural debate. We're deciding what proper Federal agricultural policy should be. It is important that the American people understand that agricultural programs had been designed to encourage a continuous but slight over-production. A hidden goal has been to keep enough farmers and ranchers producing so that an abundant supply would result in not only lower food and fiber prices in this country, but exports of low-priced commodities to assist in our balance of trade. Huge stores of grain were held by Government to be sold when farm prices went ''too high.''

Since the time of the first Dust Bowl we have enticed farmers to become more and more dependent on Government subsidy programs. As we move to a more market-oriented farm policy, it is important that we phase out subsidies smartly. Research and technology is needed to conserve water and topsoil, increase the efficiency of pesticides and fertilizers, and maximize yields. Farmers must ultimately make a profit if they are to continue to produce for today's needs and preserve productive land for tomorrow.

American consumers now spend 9.5 percent of their take-home dollars for food. With that 9.5 percent, they are able to buy the best quality, lowest-priced food in the world. In our haste, we cannot undermine the agricultural base that made our country strong. We must not forget our own history. New Federal farm policy needs to help assure a strong agricultural industry.

REPUBLICANS CARE MORE ABOUT MILITARY CONTRACTORS THAN THOSE WITH THE AIDS VIRUS

The SPEAKER pro tempore (Mr. MCKEON). Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week my best friend's son died. He was 33 years old, HIV positive, and died from cancer—considered an opportunistic disease related to HIV.

Also last week, this House voted to invest $9 billion more than the President and the Secretary of Defense wanted, for bombers, missiles, and star wars.

I wonder how my best friend's son would have felt about that if he were still alive today. I wonder how he would have felt had he known that the new Republican majority were going to take money away from AIDS research and put it into wasteful military pork.

Mr. Speaker, what are the values of this body? Where are our priorities? The cold war is over, but we are spending billions of dollars on additional B–2 bombers and Trident D–5 missiles.

The war rages on for AIDS patients and their families, but we are taking their weapons away. Congress has placed an arms embargo on the most vulnerable people in this Nation, all because the Republican leadership cares more about military contractors than those who have contracted the AIDS virus.

FEEDING THE HUNGRY OF THE NATION'S CAPITAL, AND REDUCING THE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I would first like to talk about an issue of feeding the hungry in our Nation's Capital. I would like to thank my colleagues for the overwhelming response to our Dear Colleague letter, for the donations of sweet potatoes that were distributed to their office.

I would like to especially thank the gentlemen from Louisiana, CLEO FIELDS and RICHARD BAKER, for their work with the Sweet Potato Council of the United States, who gave each Member of Congress two cans of whole sweet potatoes. Mr. FIELDS and Mr. BAKER generously donated three cases of sweet potatoes for the hungry. The sweet potatoes will be given to D.C. Central Kitchens, a local not-for-profit organization that provides 2,500 meals a day to men, women and children in area shelters and feeding programs.

Over 100 offices of the Members of Congress have donated so far. It has been so successful that we hope to repeat this again. Several offices have donated additional items. Every item is much appreciated.

Mr. Speaker, I would like to commend my staffer, Jennifer DelVecchio,

who came up with this idea. Many times people come by our offices and bring us small tokens or some products from back home. When we get such abundant products, some of which sit on our shelves and go to waste, she thought it only appropriate that we reach out and help those in our Nation's Capital, that the food really go to use for those who truly need our help.

Again, I would like to congratulate my colleagues in Congress for supporting this very, very worthwhile project.

Mr. Speaker, let me speak for a moment on something that I think really needs reform in the United States Congress. Yesterday in the Committee on Science I had the good fortune of striking what I considered wasteful spending in Congress. Twenty-five thousand dollars was allocated to gas-cooled nuclear technology, which has been underway for over 30 years. The Department of Science, the Department of Energy, all conclude that this proposal is going nowhere, that commercial application of this gas-cooled technology is going nowhere.

The President's budget for three times has consistently voted against it. The Senate turned it down in 1993. However, somehow the $25 million has shown up in House appropriations. I won an amendment 25 to 15 to strike this $25 million from the budget.

Today in the committee, however, Mr. Speaker, one of the Members decided $25 million is too much to pass up, and offered an amendment which was successful, to transfer that $25 million to another program.

There is a problem here in Washington, and the problem is people in Congress cannot get their hands out of the wallet, out of the checkbook of our Nation's taxpayers; that every dollar that is on the table, any dollar that is missed by an appropriator, any dollar that is offered up as sacrifice for deficit reduction, is instantly claimed as found money, so they say ''Let us get every cent of that $25 million and find something else to spend it on.''

Mr. Speaker, I can only reach in my pocket so deeply to find the very few dollars that are in it. Every dollar I come out with is my dollar. However, in this institution, the dollars are somebody else's. The card that we vote with is the world's most expensive credit card. We stick this in the machine and we can spend billions of dollars without any consequence.

Mr. Speaker, I am somewhat appalled when this Congress cannot come up with a mechanism that when a Member offers a deficit reducing formula to save the taxpayers money, that saves money from wasteful spending, that we cannot take that money and earmark it and lockbox it away to bring down the Nation's deficit. It is clearly one of our greatest problems. It clearly is driving up the cost of credit for consumers.

Clearly, the cost of credit for buying a home today, a 30-year mortgage, 7½ to 8 percent, would be brought down over 2 points if we get the Federal Government's appetite for credit to be minimized, and the private sector would then see relief for the average consumer.

However, no, not in this body. I see money, I spend money. I see money they do not want, I will spend it over here. Mr. Speaker, I say to the Members who are listening to this, they need to clearly reflect on what our priorities are. I think we should be in a race to see who can save the most money.

The prior speaker suggested that the Republicans are only interested in voting for bombers and missiles and are not concerned with AIDS and other issues. This Member of Congress voted against the B–2 bomber. This Member of Congress does indeed support increased funding for AIDS research, because I think the cost to the taxpayers will be exacerbated by the cost of AIDS in our community.

Mr. Speaker, it is not fair to characterize all Republicans as mean-spirited, only interested in defense and not interested in social services.

RESCISSIONS, BUDGET, AUTHORIZATIONS, APPROPRIATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas, [Ms. JACKSON-LEE] is recognized for 60 minutes as the designee of the minority leader.

Ms. JACKSON-LEE. Mr. Speaker, rescissions, budget authorization, appropriation. Mr. Speaker, I imagine the American people are wondering what holds up in the U.S. Congress, what is the job and the tasks of those that would represent us.

We have heard these words: rescission, budget, authorization, and appropriation.

Mr. Speaker, I rise today to speak to an issue of great importance, not only to the people of my Houston district, the 18th Congressional District, but to the entire country. It is interesting, Members will hear my colleagues on the other side of the aisle chastise, criticize, and disjoint the pleas of the American people. What they will claim is that this particular Congress is filled with nothing but special interests, special interests here, special interests there, special interests over there.

I would simply say that this Nation is not filled with special interests, it is filled with special aspirations. We want to be inspired and challenged. We want to dream. We want a Nation that is not on the brink of a recession. We want economic enhancement and development.

Mr. Speaker, I would simply say, as we begin to look at this process—rescissions, budget authorization and appropriation—why do we not understand what the special aspirations are of Americans?

I would simply say that this young lady, possibly an honors graduate, simply wants an opportunity for higher education; or would you say that she does not deserve it? I would venture to say if she is typical, she has about 70 percent student loans that have to be paid back, and we understand that we must make sure and ensure that we have a system that ensures that recommitment back to the student loan program, and maybe only 30 percent scholarship. She is typical of the student in America today: hardworking.

Many campuses that I go and visit in my district alone, which is only an example, whether they are the Houston Community College, whether it is a 4-year college in Chicago, IL, or maybe a private college in Atlanta, GA, there are hardworking students there. All they simply want is an opportunity and a chance.

What do we have out of this process of rescissions, budget, authorization, and appropriations? Cutting student loans, not for fiscal responsibility, which I have standing to be here, because I voted for a balanced budget, but we do not have our interests and our goals and our focus right.

When we go to the House floor and begin to talk about deadbeats in America, does that include those citizens who have fallen upon tragic hard times in Oklahoma City? Does it include those who have faced tragedy and loss in Florida, with the weather and hurricanes? Does it include those individuals and citizens in California suffering in the recent earthquake just about a year ago or so?

America is a country of people. It is people with aspirations. Yes, we should balance the budget, but what are we doing? During the rescissions process, which is taking back money, it seemed that we could find nowhere else to cut but summer jobs. That seems like someone would be able to stand up and talk about ''Oh, another handout.'' I argue vigorously not, for summer jobs, which must include the partnership of corporate America, give young people the opportunity to work. It gives them the culture of work. It allows them to have an understanding of what work is all about.

Although these particular youngsters are not necessarily real, they do symbolize what is good about America, the fact that we have children who have an opportunity to grow up strong, hopefully healthy, like many of the babies and young people and elementary school youngsters that I see in Wesley Elementary School or Turner Elementary School or Peck Elementary School or Pleasantville Elementary School, located in the 18th district, along with the wonderful elementary schools in the North Forest Independent School District, and Ailine, and parts of Ailey.

□ 1845

It simply exhibits that we have as a responsibility in this Nation to be fiscally responsible but to take care of our children.

Do you think it makes sense, then, to cut a program called WIC, women and infant children, that not only provides nourishment and nutrition for children but in fact it provides opportunity for young mothers to get their children immunized? What is the ultimate impact of that? It means that we will have less of those be subject to disease, and lower health costs, and all of us would like to see that.

What we have had happen is rescission, so the first part of this half a year has been taking back money. It seems that the knife-cutting has been on the aspirations of young people and children, clearly taking away hope, and not playing the role that the government should, not in charge, not dominating but actually being a partner. That is what we should be.

We have heard your cry from America, and we know there are those who may be a little misguided. I read an errant writer who wrote to a local paper,

> Don't ask me to feel guilty for the innocent children of someone who is too lazy to provide for them. Sorry, it just does not work anymore. When you can find several generations of welfare recipients living in public housing, who live off of others from birth until death, something is wrong and it's just not my fault.

An easy statement to make. In fact, as my children would say, that's the ''in'' thing. ''That's fresh. That's cool.'' That is what everybody is saying. That is what the polls say is something good and cool and receptive to say: ''Get rid of the deadbeats. I don't want to support them.''

But when you actually probe who is on welfare, it happens to be many people who want to get off. Should we provide an incentive to get off? Of course. Should we purge those who have been on and not seeking employment? Of course. But to blanket and to label all of those folks as individuals who are not my problem, somebody else's problem, is misguided, is not an example of the true spirit of America, which is to challenge people to be better and to give people a better opportunity.

As the Committee on Appropriations marks up the various bills for fiscal year 1996, I am concerned that many programs such as education and housing and job training will not receive adequate funding. They equal investment in America.

We can fight articulately and well for programs like defense and space and research, vital programs. But you cannot tell me you cannot imagine the value of matching that, creating the scientist through education that will then be at NASA, the technologist who will then be at the Defense Department who will help us be militarily ready. Why would we want to counter this young woman's opportunity and my wonderful dolls who are symbolic of all the children in America?

Have you listened to some of our children talk about their hopes and dreams? Some youngsters today talk about their feet of living past a certain age, many in the inner city, some in our rural communities, because they are exposed, if you will, to more than we have ever been exposed to with respect to violence and threats against their lives. They are feeling that maybe they will not be able to get to come up to this young lady's stage in life, happy, graduating from high school, looking for a dream.

I understand that it is the ''in'' thing to talk about the other fellow. The Republican majority has produced a document they call Cutting Government. There is not a one of us who would not sit down to the table of reason and talk about downsizing, talk about making government efficient.

You know what the real dream is and the real focus? You should have a plan behind cutting, not a mishmash of scissors, going here and going there. I believe in a lock box. If we save some dollars, there is an opportunity to put it in a lock box for deficit reduction. But let us not lose our dream, our path, the hope that we give to these young people.

The document proposes to eliminate three Cabinet departments, this Cutting Government document, 284 programs and 69 commissions and 13 agencies, some of which we can get along without, many of which have made it through their time period of survival or purpose.

But yet if we look seriously and honestly about where we want to go in this Nation in the 21st century, we would be appalled at the cost cutting in vocational job training. We would be literally appalled at the programs for Goals 2000. We would be literally overly overwhelmed, if you will, by the proposals that would undermine the role of Government, giving hope to those who would seek hope.

These proposals do not represent budgetary surgery with intelligent scalpel-like precision. Instead, Mr. Speaker, these goals are tantamount to crafting a fiscal policy with a meat cleaver.

Some people would say, well, these only impact on these soft programs. But when you cut housing, when you cut veterans' benefits, when you go into the infrastructure and cut transportation dollars, you are literally turning the clock back.

You might have heard some years ago the commitment of this Government to rebuild America. Many of you may have read in your local newspapers about the pending or the possibility of a recession. That is why I am hopeful, with the President's budget, that it is another opportunity for discussion of the best way to go.

It does not take us away from a balanced budget. It simply provides a reason and rationale for moving forward a little slowly in a 10-year period. I would simply say to you that it is important that we rebuild the highways of America, the bridges of America, the infrastructure work of America.

We are finding out that, as we have come under the Clean Water Act, and the Clean Air Act as well but particularly the Clean Water Act, many of our local communities find themselves with impure water, bad sewer conditions, and not able to enjoy the quality of life we would like for Americans.

Did you read recently the report from the Center for Communicable Diseases told most Americans, ''Boil your water before you drink it''? Someone would say, ''Are you sure you didn't see that in the paper back in the 1800's?'' No, we saw that today.

It is extremely important that we not take short shrift to the role Government can play. Let me simply share with you as we begin to look at how we can be more successful in focusing in a more reasoned manner in dealing with some of these issues.

I am a strong supporter of the defense of this Nation and of course, as I said, military readiness. That is a theme that everyone likes to promote and I think it is important. We want our young men and women, our enlisted men and women, to be secure and protected and prepared.

However, I am also concerned about families, children and the elderly. They, too, need our help as a partner. Let us not take the ugly way out, the castigating, the throwing stones, ''It's not my fault,'' ''I don't care about innocent children if the bums want to be on welfare.''

Yes, I am reiterating this because I think it is tragic, because Americans have always been individuals that have risen to the challenge. But as we look at this budget chart, we show the budget allocations for 1996, and I ask you to pay particular attention to the deep reductions in Transportation, Labor, Health and Human Services, Education, VA, and HUD appropriations.

Do you know what some of those HUD appropriations are all about? Well, it takes some of the folk that many of you see under the bridges, some who can be redeemed, some of the homeless folk under the McKinney Act we were providing and going at full steam ahead to house individuals and begin to turn them away from the mindset of homelessness.

I know it well, for when I served in the city of Houston on its local city council, I began to craft for that city a formula for working with its city's homeless, maybe about 10,000. There were many naysayers: ''You can't do anything with them. They like living under the bridges.'' But when we began to look, they were families, some of whom were living from paycheck to paycheck and because of some tragedy in the household, they were made homeless.

Let me tell you, we have turned that problem around. We have got folk housed in what we call transitional housing. We have got the private sector working with us. We have a downtown corporate community actively engaged in helping the homeless, and we are getting folk off of the homeless rolls, back into housing and being able to work as much as they want to work.

It is my challenge that we cannot abide by such draconian cuts and a withdrawal from investment in the future. We must be considerate and thoughtful.

When we look at these cuts and we see that it has been reduced, as I have said, by $9.8 billion, look very carefully at what we are going after. We are hurting cities. Cities are in fact the bastion, if you will, the heart and soul of civilization. Rome likes to think that, but cities are in fact where people are energized.

Let me include rural America, as well, because as I talk to my colleagues from rural America, they assure me that many of the ills that confront us in cities are there in rural America, and they need help with AIDS, they need help with housing for the homeless, they need help with health reform and health care, for I sat on a committee in the State of Texas, and it appalled me to see the number of rural hospitals closing because of the inability to fund indigent patients in rural America.

Can we stand for that? We can stand for more fiscally responsible health reform. We can be assured that we do the right thing and don't have people abusing the system. But can we have hospitals closing because we are in the budget-cutting business?

Mr. Speaker, what this evidences is the fact that we have forgotten our direction. We have forgotten the future of America.

I see my colleague from Illinois and I know how hard he has worked on many of these issues. In fact, he comes from a district that has called upon him to be of great service in this battle, and he has fought not for his single issues but he has fought for Americans.

I am very proud to yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I want to thank the gentlewoman from Texas for taking this special order. I was back in my office going through my mail and I listened to her, and I said I want to come by and join my friend from Texas, because her message is my message. When you told the story about the college student loans, that touches me very, very deeply.

I was a recipient of Federal college student loans. My father passed away when I was a sophomore in high school. My mother was a payroll clerk for a railroad. We literally did not have the savings or resources to take care of my college education.

My mother and father had made it through the eighth grade. That was the extent of their education. They of course hoped I would do better, as every parent does. But when the time came to pay for those college expenses, I took a job, as every student would, and worked during the school year and during the summer months, and it just was not enough.

I got a little scholarship assistance here and there, but frankly had to turn to the U.S. Federal Government and something called the National Defense Education Act, that loaned me the money necessary to complete college and law school. It came to a grand total back in the 1960's of $7,500, which I thought was a mountain of debt I would never get out from under. Yet my wife and I worked and paid it off as we promised we would, so that younger kids behind us could have their opportunity.

When I listen to the proposals for budget deficit reduction from many of our friends among the Gingrich Republicans that suggest that we need to cut back on college student loans, that suggest we need to make the expense of a college education that much more for kids from working families, I think many of them have forgotten where they came from. They have forgotten that at a time in their life, this Government, this Nation, reached out a helping hand to them and was paid back in a great measure because for each of them who got that helping hand, there was an education, an opportunity, and I guess an opportunity to contribute to America, not only as a Member of Congress but in business and in so many different areas.

It seems to me so shortsighted for us to be cutting back on college student loans. I sincerely hope that my colleagues on both sides of the aisle will remember how significant this is.

If I might mention one other point along these lines, 75 percent of the young people who graduate from high school are not going to end up graduating from college. They are going to go out in the work force looking for good-paying jobs. They will need other types of assistance, job training, to make sure that they are qualified for good-paying jobs.

I worry, too, as the gentlewoman points out the cutbacks that we are making in training and employment programs. She and I will be the first in line to suggest we need to modernize those programs, make them better.

I would commend to my friend from Texas, if she has not read it, a book by Hedrick Smith entitled ''Rethinking America,'' where he basically compares the educational systems in Germany, in Japan, and in the United States, and shows some real deficiencies in our system that need to be corrected. But we also have to understand that in those countries that are successful in taking kids right out of high school, putting them into good-paying jobs, career jobs, they have made a massive investment in training and education that is important to them.

Last week we had a debate here on a defense authorization bill, a question about building multibillion-dollar bombers.

□ 1900

Let me tell you, I think a few less bombers and a few more dollars spent on education and training would go a long way for a much more secure America in the future. The gentlewoman is right on track here, and I thank her for her leadership in this special order, and I will continue to stay here and join in, if I can, as she raises issues of mutual concern.

Ms. JACKSON-LEE. I thank the gentleman for his very, very kind comments but as well very, very pointed comments. He has taken me back for a moment. If I may have the gentleman indulge me just a moment, sometimes when you come to share, you are so busy focusing on numbers that you do not put the face on who may be impacted, and he took me back to my early years, and I think it is important because, let us be very frank, we are somewhat different. I think that is the face of America. It is important to realize that as the gentleman's history was, so was my history. I remember being the first to go to college in my family. Hardworking parents, their main goal was to make sure their children had a better opportunity and the time came for college and, of course, was I even then going to college, much less did we have funding to do so. Lo and behold came this opportunity for financial aid through and by a scholarship and grant and loan. The gentleman is right. The numbers seemed enormous at that time because I had them in college as he did and fortunately was able to go forth out of college and then decided, being inspired and really viewing America as a place that is a place of special aspirations, as I have mentioned, to go on to law school. Those numbers seemed enormous, but I think as the gentleman has said we can count those who have made good on those student loans and the broad brush of the problems with these programs that the Government involves itself in is not the way that we should go.

I know the gentleman spent many of his days in his district in May and June at graduations and he actually got to talk to students I would imagine, as I did. Each of them I think had stars in their eyes, holding that diploma, being able to look for an opportunity. There was not a dry eye in the place. I had to talk to those parents, many of whom had spent their life savings and were in trouble, but they were there clutching that purse, clutching that diploma, and hugging that child to say we can work with you to make sure you go, and I know that there will be a little bit of change here and a little bit of change there, but these are hardworking people. Should I come to the U.S. Congress and take that dream away from them?

The gentleman is right. What year is this: 1995 going into 1996. In 4 years almost we will be in the 21st century. Do we want to be any less of a nation than Japan, and as you mentioned England and Germany and France and Italy, in terms of any focus they may have on work, job creation, and the training of our young people?

Mr. DURBIN. If the gentlewoman will yield, I would like to also comment we spend so much time on this floor talking about statistics and numbers and percentages and budget outlays, and all sorts of things which I am sure most of the viewers back home say, what in the world is that all about.

Ms. JACKSON-LEE. That is why I started out with budgets appropriations, authorizations.

Mr. DURBIN. I am so glad the gentlewoman did, and I think what we have to do too is try to translate some of the debate here on the floor to the real lives, to the people we represent.

If I can use an example, I went to a community college in my homeland, Lincoln Land Community College, to talk about the increased costs of college student loans from the Gingrich Republican proposals, and I asked the students what impact this would have on them when the average student will see an increase of $5,000 in the cost of their college education because of Gingrich Republican proposals, and a number of students said: This is tough, Congressman, it is tough enough now. We want to get out of school and get to work. We stretch out our education because it is so expensive, and now you tell me it is going to be more expensive.

So we broke up the meeting as I started to leave and a young lady came up to me, an African-American lady. She said: I was a little too embarrassed to raise my hand, but let me tell you my story. I am a welfare mother, I have two children. I am coming out to this community college and I have a college student loan. I said, ''What are you studying to be?'' ''I want to be a chef. I am trying to get the courses and training so I can be a chef and make a good living and get off welfare,'' she says. ''Now you tell me it is going to cost me more for this college student loan.'' She looked me in the eye and said, ''What am I doing wrong? Why are you making it tougher.''

We talk about welfare around here as if it is an easy thing for a person to get off. In many cases it might be, but sometimes it takes hard work. She was putting in hard work, finding somebody to watch the kids, going on out to school, taking the courses borrowing money to pay a college student loan, and community college tuition is pretty low, but she did not have it and had to borrow it, and now we are telling her it is going to be more expensive for her to try to get off welfare and go to work and have some personal responsibility. I think we have to remember some people like her around this country who are behind these statistics and standing behind these budgetary names. I think you have pointed it out here, and there are so many other areas too that we ought to be addressing.

Ms. JACKSON-LEE. You tell her she need not be ashamed because I confronted her sister, who happened to be a white woman in Houston with two children who came up to me, how ironic, and said the very same thing and looked almost panicked because she was trying to grapple with and understand was I telling her tomorrow she would not have a student loan, but certainly expressing a fear because she too was leaping into the arena of independence.

The gentleman remembers how vigorously we worked as Democrats for real welfare reform. He remembers how vigorously we argued against welfare punishment and what was the deal? Work was the cornerstone of that proposal. It was again an investment back into America and Americans so that we would take less people into the 21st century on welfare. How proud we could be as a nation to be able to go into the 21st century and look back on real welfare reform that had welfare, job training, child care and health care, and a work element to it. How proud we would have been. How much we could have pointed to what the Government would have been able to say, not that it dominated, not that it took over, not that it spent too much, but it partnershiped with the States and local government to get masses of people off of welfare and to be working Americans in the 21st Century.

Mr. DURBIN. If the gentlewoman would yield, I think what we determined during the course of that debate on welfare, we analyzed on the Democratic side and the Republicans did it on their side, and I think frankly we understood the parameters of welfare. Certainly there are people on welfare as there are people in business and in other walks of life who are going to try to take advantage of the system and game the system and stay on as long as they can. But I am impressed by how many people we meet who want to get off this welfare tangle. They really want to do something with their lives, and we have to decide whether as a nation we will invest in them and their future. And that investment is training, it is education, it is transportation, it is day care, it is some health care assistance for them during this period of time.

But think about it, if we do not do it, if we just leave that person in the depths of despair, stuck on welfare, hopeless, they are not only a drain on society, they have lost their own self-worth, and they really do not have a chance to succeed. So what we tried to do on the Democratic side was say all right, we will draw the line. You cannot be on welfare forever, but for goodness' sakes let us have a goal for each person. Let us move from welfare to work. Let us make people productive citizens in America today. That is an investment that will pay off for a long time to come. It is one we made after World War II.

Ms. JACKSON-LEE. Clearly did.

Mr. DURBIN. We said to the returning veterans, we really invested in you as soldiers and sailors and airmen, and now we are going to invest in you as American citizens and your families, and boy, did it pay off.

Ms. JACKSON-LEE. What a boom in the fifties, was it not?

Mr. DURBIN. The greatest growth in the size of America's middle class in our history. We may never rival it again. I hope we do some day. But the country said as a nation our biggest and most important resource is our people, and these veterans and their families are an investment we are going to hold very dearly when it comes to their education and housing and businesses.

Ms. JACKSON-LEE. The gentleman raises, if I can move to two other issues that he reminded me of, and goes to the issue of investment and partnership. I think what we did when the veterans came back was actually the Government being affirmative, but it was a partnership. It was to give those returning veterans a leg up, and they got their leg up. They made good on their investment in terms of having served time. If they got some loans or some other governmental help, they became working Americans. They built all of the kind of tract houses throughout this Nation, but they became homeowners, taxpayers, and they raised their families.

The gentleman talked about how he had to work his way through, and most of us did, with that summer job or some kind of job. Interestingly enough many of us rose to the floor of the House to fight vigorously against cutting our kids, cutting them off from summer work.

Somebody made a lot of loose jokes about this baby-sitting camp, they are standing around. I made it my business to go back home and to reintroduce myself, if you will, because I have had youngsters work in my office in summer jobs, and I can tell you I did not see anyone being baby sat, if you will.

I tell you one personal story of a youngster, I will never forget her, came from a different background, was a recent immigrant of some years, family is now naturalized, Vietnamese, and called back one day after she was hired and said, ''Ma'am, I think I won't be able to come.'' We kind of calmed her down a little bit and prodded a little bit, and she said, ''I don't have the right clothes.'' We said whatever you have, we kind of tried to make it light, said if you have a paper bag, come on to our office. But that young lady was concerned she did not even have the clothes to come sit in an office. She worked harder than any other young intern during that summer. She learned something as well. I have heard great things about her since, graduating from college.

This is not a baby-sitting program. If we have got some, we will fix it. No one has said not to fix those programs that are not working, but I can go to the city of Houston and find youngsters getting good skills, getting an incentive to finish high school and go on to

college because they have been exposed to a workplace relationship. I would not deny any corporate American to participate with us in this program. I do not think any of us said that that was not possible. But the Government steps in to give incentive and to provide and to invest dollars in a worthy manner.

Let me add another point for your thought about this. You come from an urban area. What would we do without transportation? We can all debate on whether your urban transportation is mass transportation, train, rail, or someone else's bus or someone else's highway or bridge, but what would this Nation be? Our forefathers left the 13 Colonies and found a way to go west, go west, young man, young woman, to explore, and they got there through transportation, and of course the way they got there was a four-legged animal. We now today are prepared to make massive cuts. That is taking away from the opportunity for people to grow.

I see people up here, tourists who have visited this Capitol, many of whom have come by the transportation that includes the highways and the bridges of America. We are glad that they are here. We are glad they have the opportunity to freely flow throughout this Nation in freedom. What would they think if they got to the end of one bridge having traveled halfway across the country and it was nothing but an open pit because it had collapsed because it was in such disrepair? Is that a focus on what is good for Americans? Is that the cleaver mentality of the Republican majority? Yes, it is, the meat-cleaver approach. It does not invest capital in Americans, in jobs, in businesses, that help us design and build these infrastructures that are needed for us to be the kind of 21st-century nation.

Mr. DURBIN. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Illinois.

Mr. DURBIN. What we should recall too is there is nothing partisan about what the gentlewoman has just said. Possibly the greatest investment in modern times in America's infrastructure was made under a Republican President, President Eisenhower, who decided in the fifties that the United States would embark on an Interstate Highway System. It was unheard of. He was going to link up every corner of America through a modern highway system. In my part of the world, my hometown, Springfield, IL, is on old Route 66. It used to be the subject of a lot of songs and a lot of Americana. But Route 66 was replaced by Interstate 55, and so many other interstate systems. At the same time the middle class is growing after World War II with our GI bill and our investment, America made an investment in infrastructure that has paid off so handsomely for us. It is the greatest thing in the world when one of my communities, Quincy, IL, was recently designated as being on an interstate highway. All of a sudden now they have a chance to brag and say not only have we got a great highway, it is interstate standard. So you think about what this means to a community. If we do not keep up that investment in not only our highways and our bridges and our airports and ports, but in the people who build them, then frankly we will pay dearly in the future.

I watch some of these cuts that are coming down the line here.

Ms. JACKSON-LEE. $1.1 billion in transportation, by the way.

Mr. DURBIN. $1.1 billion, and it not only affects what I have just described, but it also affects mass transit. In the city of Chicago, for example, so many working families get on that mass transit every day to get down to their workplace. It is their only way to do it. They cannot afford to drive and park. They have to take mass transit. Now we are seeing massive cuts in operating assistance. So these communities will see the fare box go up in cost, which means that families struggling now to get by, husbands and wives both working hard trying to make ends meet, have a new added expense because of this decision to cut back on operating assistance. It really raises a question about whether we are helping the right people.

I worry as much as the gentlewoman does that we have to help all of America, but I am particularly concerned about those who are struggling down at the bottom, those forgotten families at the bottom of the economic pyramid, who pay their taxes, play by the rules, and keep falling behind. When we see cuts in operating assistance for mass transit, we are not making it any easier for them to get to work.

Ms. JACKSON-LEE. If the gentleman would yield, I am glad he said that we are here for all Americans, because if I can get just a little bit feisty for a moment, I am darn mad about the accusation. I do not know about the gentleman. He has got Springfield and parts of Chicago. I know he has a corporate community, and I know he has worked with them, because I have worked with the corporate community in Houston.

□ 1915

Because I have worked with the corporate community in Houston and we have worked along the lines of making their needs come before the United States Congress and insure the activity for a climate that will create jobs and a good business climate. No one, I guess, is against that.

But I think that we fail and do not reach the mark. We do not get to the finish line if we do not do what is good for people.

We take that $1.1 billion away from transportation, including mass transportation, and Mr. and Mrs. Smith, who do not have a car or cannot afford the gasoline that will take them downtown on a regular basis, are then kept, and that is a lot of dollars, the transportation costs of going back and forth and maybe the youngsters are going to school on public transportation. It adds up, and every penny is counted in some families in America. You know, 14 million of the families in America earn under $10,000 a year, and so what we have is a situation where we are turning around and slicing ourselves in the wrong place because we are not investing in Americans and giving them the opportunity to go to that workplace and be part of the system.

And so I do not take very lightly any suggestions that the climate for business has not been good when Democrats have been in, because I think we have not come this far for them to be able to achieve in the best Nation in the world for the kinds of corporations that we have. They have enjoyed the bounty of this Nation.

And yet we now come to a point where we may undermine that very structure that they have, the talent, and the trained employees that I have had corporate executives tell me they depend on. They wonder where the trained workers will come from for the 21st century. We are cutting transportation for them to get there, and we are aimed, for cutting, if you will, the training for them, but yet I think, you know, this issue, we still have a billionaire tax loophole. We allow those folks to enjoy the bounty of this Nation. That means that they enjoy the green lands, the wonderful capital. I heard one colleague tell me what the percentage of what we are invested in America, what each of us owns. We are millionaires, to be certain, about what we own in this Government, and yet those individuals will enjoy the bounty, all of this goodness, and then have to abdicate their citizenship and live somewhere else where they will not pay taxes. They are billionaires, and we are losing about $3.5 billion a year.

Mr. DURBIN. The gentlewoman makes an important point. Most people may have missed it. There was a television special about folks who became so rich that in order to avoid paying Federal taxes, they renounced their citizenship, and by renouncing their citizenship and becoming citizens of some other country, they avoided their Federal tax liability, so they used our Nation, they used our resources, they used our people, they filled up their bank account, and then they skipped town, and what we have been trying to do, actually skipped the country, what we have been trying to do here is to change that and to say that is all over. If you owe the Federal Government of the United States taxes and you have made a profit in doing it simply by renouncing your citizenship, we are not letting you off the hook. I am sorry we could not get our colleagues on the other side of the aisle to join us in this effort.

Ms. JACKSON-LEE. Repeatedly we have tried, have we not?

Mr. DURBIN. We tried it several times. It strikes me as eminently sensible if a person earned his or her fortune in this country, they should not be able to get off the hook and escape the tax liability. These families getting on the mass transit every day in your hometown and the city of Chicago, they are paying their taxes. It is coming right out of their paycheck. They never think about renouncing their citizenship. They are proud of their country.

I am sure they get a little catch in their throat at the ''Star Spangled Banner'' and watching the flag.

Here we are protecting these folks who would walk away from America. That does not make any sense whatsoever.

I sincerely hope we can address this in the near term because it is really a loophole in the Tax Code that must be changed.

Ms. JACKSON-LEE. Let me just draw you, as we begin to conclude on where we are trying to take this Nation, because I believe what has been misunderstood, as I have understood it, I have worked hard to be a part of the process, is that we have solutions. We did not totally ignore a tax cut. We had a reasoned tax cut for citizens making under $75,000.

There are solutions that can be bipartisan. We, as Democrats, looked at whether or not any citizen making over $200,000 need a tax cut. I have had them tell me they do not need it.

And so the tax cut that was offered, a fair one, I might add, really spoke to the issue of getting to those working families.

Mr. DURBIN. I just will ask the gentlewoman to yield so it is clear the tax cut package the Democrats support was for families making $75,000 a year and less.

Ms. JACKSON-LEE. That is correct.

Mr. DURBIN. The tax break package supported under the Gingrich Republican contract actually gives tax breaks to families making $200,000 a year and more. A family could be making $4,000 a week and qualify for the Gingrich Republican contract tax break, and I think the gentlewoman makes an important point here. We ought to focus on helping people who ready need it.

Ms. JACKSON-LEE. We had a plan. I think that is what is important.

The other difficulty that I have is that many of the rescissions, remember I started out saying rescissions, budget, authorizations, appropriations but many of the rescissions, taking away money, was not even to place it with a focus, to help us move into the 21st century, maybe giving some more money to education. Those cuts they were doing was to give these people making over $200,000 more money, and not really focus on transportation, on military construction, or dealing with the training program or having a real welfare reform package. That is the exasperation.

That is what I think the American people need to understand. There is not a lot of talk here without action. We worked on real packages that, if accepted, would have been a fair bipartisan approach to this whole idea of, one, reducing the deficit, having a balanced budget over a period of years, which I think many of us may agree with, but we want to have focus and direction and we want to protect the working families of America.

We could not strike that chord, that unifying chord. What we actually had were pages and pages of cuts going to the very heart of veterans, like our good friend who is not a veteran but certainly our hero we had in Bosnia. He came back. We all praised him. Why were we praising him? Because he had the training, the training to know what to do. He saved himself, and he made us proud of America.

All through here are cuts that would impact on some aspects of what happened with that young man, who is a hero, aspects on his early education, training, secondary education, high school, college, impact on housing on those who are trying to get job training, all of these, a myriad of cuts.

I do not think anybody paid any attention to what they were impacting. They just got lists.

Mr. DURBIN. That point is an important one. The question is whether or not we have to make cuts to balance the budget. The answer is ''yes.'' The question is: Should we make more cuts in order to give a tax break to wealthy people and to profitable corporations?

What the Republicans proposed in their Contract on America was a package of about $350 billion in tax breaks. That meant, in order to move toward a balanced budget, we had to cut another $350 billion in spending on other programs, and we are down to the point now, there is still waste we can find, we are also finding they are proposing cuts in education and health care and things so critically essential to our Nation.

So does it make sense to cut a college student loan in order to give a tax break to somebody making $200,000 a year? That is upside down.

If we have limited resources, focus it on the people who need it.

What we said in our tax cut package was let us focus it, for example, on families that want to deduct the cost of college education for their kid. That is sensible. That says let them put together a little account for their kids' college education and get some favorable tax treatment as a result of it. That is a good investment all around, families doing the right thing for their son or daughter, the son or daughter gets a chance of an education, and the tax code is basically giving them incentive instead of for the person making $4,000 a week, handing them a tax break which they will never even notice.

Ms. JACKSON-LEE. I have had many say this is not the time for that income level to receive one. I have had them actually say that. I appreciate the employer or a constituent who would say they are concerned about the deficit, they do want to ensure they have got the kind of youngsters trained and other adults who need retraining, by the way.

Let me speak just a moment to something that is somewhat unpopular. That is what we are going to be facing as foreign aid. I know many of our citizens claim a great opposition to that.

What is the direction of the Republican Party, to cut aid to developing nations, that they want to get off, if you will, the dependence that they have on this Nation? And I support that.

And so some of the programs that help independence, humanitarian aid; I do not want to call any particular countries, but in particular to Africa where you are able to ensure that these individuals can stop coming to the United States, and that is where we all want to be. We want to see a world that is standing on its own two feet, that has people working, that has a country that stands up for helping their economic development.

We do not know how that vote is going to come out, but what I have seen to date, it seems that they have taken the ax again, or the cleaver, to programs that would allow those small countries to be independent, and I think we do the wrong thing when we think taking dollars away, because we do not know if those countries will fall then to some misguided political philosophy, because they have not had the opportunity, not to get a fish from us, but for us to teach them how to fish and to be able to go ongoing into the 21st century to be independent.

Mr. DURBIN. Foreign aid is not popular in any quarter in America. People are very upset about it. Many do not understand it. Sometimes it is humanitarian in nature.

We have seen these heart-rending pictures of people who are literally starving to death, mothers holding their children as they starve to death in their arms, and we sense as Americans a feeling of compassion and caring to come and provide our extra bounty so that they do not die literally in the dust covered with flies. That is what America has always been about, we have always stood for.

I will tell you an area of foreign aid the gentlewoman would agree with me on, and we really ought to take a look, and I am afraid we have not. That is military foreign aid. When it comes to sending our millions and often billions of dollars overseas to protect Germany and Japan, this Member has a real problem. Here we are, 50 years after World War II, and we are still defending Japan? For goodness sakes, these folks are cleaning our clock when it comes to the trade account. They ship all of their products here. They have a trade surplus with the United States, and we are sending millions of dollars

overseas for troops and ships and planes to protect Japan?

The same thing is true in Europe. For goodness sakes, now, the Berlin Wall is down. The cold war is over, and we still defend Europe 50 years later, while the Germans are investing and uniting their country and educating their work force, making better products, a higher, I might say, standard of living, unfortunately, than the United States, in many areas. That is military foreign aid which we tried to address on this floor in the name of burdensharing, saying to our allies, ''It is about time you share this burden that we have carried for 50 years in this country.''

But many of our friends who are the first to say they hate foreign aid would not even consider touching this military foreign aid which costs us so dearly.

Ms. JACKSON-LEE. That is why I wanted to spend some time on solutions, because what comes out of the media and what trickles down to constituents is what are the solutions. We have had solutions.

What you have just talked about, yes, I join you on that. It made perfect sense, reasoned, logical planning of what we want this Nation to look like in the 21st century.

We all applauded the 50th-year celebration this past spring that we had celebrating the great coming together and the great victories we had in Europe in World War II. We celebrated, we embraced it, we went back to salute the heroes, they saluted us. We are in sync. We are committed to each other, Europe and Japan.

But the question is, the question becomes a very commonsense proposal that do we want to continue to pay for military, and it leads very well, as we move to July 4, what we are doing to our veterans.

It makes sense. We sit down to the bargaining table, we work out a process, we say if you get in jeopardy, we come to the table, we come and rise to the occasion.

But during peacetime, to continue to pay, time after time after time after time, over and over again, dollars to a peacetime relationship, it seems to me that you are not investing your money right. You are not making the right decision. It is not saying that we are isolationists or moving away from the international role that we need to have, because I support that.

I think America needs to be strong. I think we need to be there for our allies, but it makes no sense, to me, cutting veterans' benefits, having seniors come to me who are veterans saying that they are losing their benefits in health care, as someone has told them, because they have got to cut costs. These are people giving almost the extent of their life, and we are grateful they did not lose it, to this country, and yet we are cutting the very benefits of those who are in need.

We do not know what we may face in Desert Storm or what we may continue to face with Agent Orange with Vietnam veterans and others, and we need to ensure that we pay both our respects, like we like to do on these holidays, of which I join my veterans on Memorial Day, but we must show them, as we celebrate July 4, the founding of this Nation, and what we stand for, that we respect and appreciate them.

Why are we still taking care of the military overseas for other nations?

Mr. DURBIN. One of the things that I think is significant, and most Americans are not aware of this fact, is that we will spend about $270 billion in the next fiscal year on our military. I often ask in my town meetings if anybody in the audience knows which country in the world is No. 2 in military spending and how much they spend.

Well, most do not know, and it is almost a tie between Great Britain and France. Each of them spend about $45 billion a year, one-sixth of the amount that the United States spends, and yet despite all of this expenditure, $270 billion, six times more than any other nation in the world, we still have soldiers and sailors on food stamps.

Ms. JACKSON-LEE. They are not being paid enough in the service not to qualify for food stamps; still, their income is too low.

So the quality of life for men and women in the service is being sacrificed at a time when they are our most important investment. We put money into these weapons, billions and billions of dollars, and overlook the most important weapons system, the men and women giving their lives and their time to serve in our American military.

□ 1930

Ms. JACKSON-LEE. As exhibited by the captain that was so heroic in this last month in terms of his coming out of Bosnia.

Mr. DURBIN. Lieutenant O'Grady.

Ms. JACKSON-LEE. Yes.

Mr. DURBIN. I like him a lot. I think all of America fell for this fellow, because he came out and it does us proud to have fellow who has come through such terrible ordeal and who says, ''Don't give me credit. Give the credit to the rescuers. I was acting like a bunny, hiding in the bushes.'' But when he tells his story, we know it took a lot of guts and bravery for him to make it through that.

There are many more like him in the service, and thank God there are. They deserve first-class treatment. And instead of building these weapons system that cost so much money like star wars, we have put $40 billion in star wars, this Ronald Reagan concept that is going to protect the United States. We have little or nothing to show for it. And now our friends on the Republican side say, let us spend another $30 billion and see what we can find.

I say put the money in defending this country and making sure that the people who serve in the service are treated with respect and dignity.

Ms. JACKSON-LEE. If the gentleman will yield, I tried to elevate the young man to captain, but maybe because I was so impressed with his demeanor and how he presented himself to the American people.

Which reminds me of one of my invitations to visit 6,000 men and women on one of our nuclear submarines. And, really, the most impressive part of it was the young men and women. Particularly the young men; I think this was a ship that did not yet have young women on the ship.

In any event, in addition to seeing the expertise that they had, I got some personal stories as well. And I think you realize that those who are on submarine duty are out 6 months or so at a time and they leave their families back home.

And one in particular came up to me and mentioned that he was a single father with two girls who were living with the grandmother. And he pleaded with me about the need for a higher salary, because his youngsters were probably on food stamps with his mother who was taking care of them. He did not see them on a regular basis and he was struggling to make ends meet. But he was trying to be a good father and a good parent.

That breaks your heart when you hear those kinds of stories, because you know when we call upon him, if anything was to happen and he had to risk his life for us, for Americans, he would be right there to do it. I would hesitate to have him have on his mind the needs of his children. And they do.

The same thing with housing for our enlisted men and women. I again will bring up veterans. The same thing with facilities for veterans. Why would we want to put them through that? Where is the focus? Where is us capturing the aspirations of Americans?

Let me add one other thing. I am wearing this little patch because I was today with the physically challenged. And they are out supporting the Americans with Disabilities Act, which will be impacted by many of these cuts, because as you realize, the act requires modification.

And these folks were not here asking for handouts. They were not here whining about their condition. They were here in full force. They came from across the country; many of them in different challenged conditions, but yet they got here saying, We just want a chance.

I promised them today in front of the U.S. Capitol that I will give them a chance and that is what we are missing out here. We are not giving Americans a chance.

I yield to the gentleman from Illinois.

Mr. DURBIN. If the gentlewoman will yield, I had a presentation last Monday in my hometown of Springfield, IL, at the Land of Lincoln Goodwill Industries. They have been accredited for their rehabilitation activity and they take a lot of people facing

physical and mental challenges and them to work in good jobs. They pay them a modest amount of income, but really turn their lives around.

I visited a license plate factory in Decatur, IL, several years ago and the administrator told me a story. She pointed to a young woman who was working on the assembly line for these license plates and said, ''When she first came to this facility we literally carried her in. She was considered to be an impossible case; never capable of doing a thing. We trained her and stuck with her. You know what the problem is now, Congressman? When we have a big snowstorm and I want to close down this factory, I know she is going to show up anyway. She feels so dedicated to the job.''

Many people with these challenges and disabilities just need a chance. And the Government comes through with that chance, giving them a helping hand so they can be productive and have real lives.

Your commitment is one I share. And I really fear that the disabled will be the first casualties of these budget cuts and it would be sad for the future of our country if that occurs.

Ms. JACKSON-LEE. I think your fears are well founded. They indicated they felt concern about the education act that related particularly to the mentally and physically challenged, the Americans with Disabilities Act, the SSI, and Medicare and Medicaid which they depend upon.

And what I started out saying, sometimes we think it is in to talk about folk like that. Articles in newspapers or letters to the editor saying, Sorry, I am not going to feel guilty. These people are deadbeats that are on welfare.

But let me tell you that out of that session I had today in front of U.S. Capitol came a young woman who said, ''I was an architect, but after a tragic car accident and brain injury I am here today to say I just need a chance.''

We had a good time out there. A few tears were shed. Because I think Americans need to realize that people who find themselves in these conditions, physically challenged, mentally challenged, are not just the other guy that you might see that unfortunately was born that way, but many of us in life's journey may come upon these hard times, whether it is a tragic accident, but we live, and we thank God for that, but it may be leaving us in a condition where we need the kind of support that this training program could give or SSI could give.

And I have heard some really, I think, thoughtless comments that some mothers are misrepresenting on forms so that a child could be listed as autistic. I do not know if anyone has seen an autistic child. I do not think that any parent would go to that length to be able to label the child autistic, just to be on SSI.

I have seen real life cases. And we need to really invest in the American people and the cases that we have seen before us for the future of this Nation.

Mr. DURBIN. I noticed, too, in my own district, a young lady who was a single mother with two children and one suffered from a severe learning disability. She was able to continue to go to work, and continue to make money to help raise her family, because of the assistance she received from the Government.

And they asked her in this interview, What are you going to do if you do not receive that assistance? And she said, ''It is hopeless for me. I would have to stay home and take care of my child. I would not be able to work.''

At a time when we are trying to reduce welfare dependency, she is doing the right thing. She is facing a challenge that many of us would wither under and doing the right thing. And we are giving her a helping hand for that purpose.

I would hate to see us turn that hand and slap her and say, No, now you're on your own. Show us how you can do it personally without our help, because we know that just a little bit of help has made a significant difference in her family's future.

Ms. JACKSON-LEE. I don't know what the answer would be for that young woman, and that is why I am trying to get this clear message that we need a focus and a direction; that none of us are apart on the fact that we want the Nation to be strong with a strong bottom line, moving toward deficit reduction.

But where is the focus? Today I happen to have voted against the congressional appropriations bill. I did that because I would almost imagine we could cut a little bit more. But I will say the direction was wrong.

Here they were, as I see tourists coming to this Nation and this Capital represents so much good. The Botanical Gardens, which needed some enhancement, we get someone on the other side of the aisle, a Republican, who wants to cut the flowers out from Americans.

That is the kind of misguided direction. It does not mean we cannot come to some conclusion about cutting the budget. But I would think that if you asked an average American if they enjoy a botanical garden where flowers grow and enhance the beauty of this Capital, whether or not the few pennies that were going to be saved, and I can tell them it was a few pennies that would be saved, or whether or not that was worth it.

What happened? No focus. Just a haphazard approach. Everybody with a meat cleaver. Me, me, me. I want to be the one that cuts. So, I think it is very important that we place the American people first. That we ensure that we understand what the Constitution says, but more importantly what the Declaration of Independence said; we are all created equal with certain inalienable rights. And that equality is a promise to Americans and a promise of job opportunity.

And I might add just a note, it is a promise to those of us who came from different locales and look differently. And that is why I think affirmative action is something that Americans need to understand. It is not a negative; it is an even playing field.

What we should say to Americans is: Understand that Democrats have solutions. We have solutions. Your Member has a solution. I have a solution for the 18th Congressional District. I do not want the State of Texas to lose $1.1 billion in rescissions and not go back to any deficit reduction, but go to tax cuts for those making over $200,000.

What I want is a plan; a plan to invest in America. Those investments would count for infrastructure, for education, for housing, for energy development, for space development for some of us who are interested in making sure we are at the high technological cutting edge for the 21st century. It has to be, I believe, an investment.

TERMINATION OF SUSPENSION OF ISSUANCE OF LICENSES FOR EXPORT OF MUNITIONS LIST ARTICLES TO PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–87)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (''the Act''), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspension under subsection 902(a)(3) of the Act with respect to the issuance of licenses for the export to the People's Republic of China of U.S. Munitions List articles, insofar as such suspension pertains to export license requests for cryptographic items covered by Category XIII on the U.S. Munitions List.

License requirements remain in place for these exports and require review and approval on a case-by-case basis. The Department of State, in consultation with the Department of Defense and other relevant agencies, will review each request, including each proposed use and end-user, and will approve only those requests determined to be consistent with U.S. foreign policy and national security.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 22, 1995.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TORRES (at the request of Mr. GEPHARDT), for June 21 and today, on account of personal business.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. SERRANO (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. MCHUGH (at the request of Mr. ARMEY), after 3:15 p.m. today, on account of official business.

Mr. LAZIO of New York (at the request of Mr. ARMEY), between noon and 2 p.m. today on account of attending the Women's Veterans Memorial groundbreaking ceremony at Arlington National Cemetery.

Mr. LATOURETTE (at the request of Mr. ARMEY), after 4:30 p.m. today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WILSON) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

Mrs. KENNELLY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. CHRISTENSEN) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day on June 27 and 29.

Mr. SMITH of Michigan, for 5 minutes each day, today and on June 28.

Mr. HORN, for 5 minutes each day on June 28 and 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WILSON) and to include extraneous matter:)

Mr. BROWN of California.

Mr. PETERSON of Florida.

Mr. TOWNS in two instances.

Mr. HAMILTON.

Mr. FILNER.

Mr. RAHALL.

Ms. HARMAN.

Mrs. MEEK of Florida in two instances.

Mr. CLYBURN.

Mr. TORRES.

Mr. SKELTON.

Mr. MCDERMOTT.

Mr. GORDON

Mrs. KENNELLY.

Mr. CLEMENT.

Mr. DINGELL.

Mr. SKAGGS.

Mr. MATSUI.

Mr. CONYERS.

Mr. BARCIA in two instances.

Mrs. MALONEY.

(The following Members (at the request of Mr. WILSON) and to include extraneous matter:)

Ms. DELAURO.

Mr. STUPAK.

Mr. SERRANO.

Mr. WAXMAN in two instances.

Mr. HINCHEY.

Mr. JACOBS.

Mr. STARK.

Mr. FOGLIETTA.

Mr. POMEROY.

(The following Members (at the request of Mr. CHRISTENSEN) and to include extraneous matter:)

Mr. SOLOMON in three instances.

Mrs. MORELLA.

Mr. PORTMAN in three instances.

Mr. WOLF.

Mr. HORN.

Mr. DORNAN.

Mr. BAKER of California.

Mr. BRYANT of Tennessee.

Mrs. CHENOWETH.

Mr. COBLE.

Mr. DOOLITTLE.

Mr. RIGGS.

Mr. HYDE.

Mr. FRANKS of New Jersey.

Mr. TAYLOR of North Carolina.

Mr. STUMP in two instances.

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mr. BENTSEN.

Mr. JONES.

Mr. COYNE.

Mr. HASTINGS of Florida.

Mr. CAMP.

ADJOURNMENT

Ms. JACKSON-LEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Monday, June 26, 1995, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1075. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Norway (Transmittal No. DTC–33–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1076. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1077. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–63, ''Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1078. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–64, ''Arena Tax Payment Temporary Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1079. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting the semiannual report on activities of the inspector general for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1080. A letter from the Secretary, Department of Defense, transmitting the semiannual report of the activities of the Department's Office of Inspector General for the 6-month period ending March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1081. A letter from the Chairman, Federal Election Commission, transmitting proposed new FEC Form 3P for use by authorized committees of Presidential and Vice Presidential candidates, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1062. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers; with an amendment (Rept. 104–127 Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. House Joint Resolution 79. Resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States (Rept. 104–151). Referred to the House Calendar.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1617. A bill to consolidate and reform workforce development and literacy programs, and for other purposes; with an amendment (Rept. 104–152). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1720. A bill to amend the Higher Education Act of 1965 to provide for the cessation of Federal sponsorship of two Government sponsored enterprises, and for other purposes; with an amendment (Rept. 104–153). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 171. Resolution providing for consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–154). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1077. A bill to authorize the Bureau of Land Management, with an amendment; (Rept. 104–155). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. A Citizen's Guide on

Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 104–156). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee of Conference. Conference report on H.R. 483. A bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes (Rept. 104–157). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STARK:

H.R. 1912. A bill to deter and penalize health care fraud and abuse and to simplify the administration of health benefit plans; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER of Louisiana:

H.R. 1913. A bill to reform and improve the rural electrification loan programs under the Rural Electrification Act of 1936; to the Committee on Agriculture.

By Mr. COYNE (for himself and Mr. STARR, and Mr. LEWIS of Georgia):

H.R. 1914. A bill to require the mandatory reporting of deaths resulting from the prescribing, dispensing, and administration of drugs, to allow the continuation of voluntary reporting programs, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Texas (for himself, Mr. BYRANT of Texas, Mr. GALLEGLY, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mr. BONO, Mr. HEINEMAN, Mr. GEKAS, Mr. COBLE, Mr. CANADY, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BARR, Mr. BAKER of California Mr. BALLENGER, Mr. BEILENSON, Mr. BILBRAY, Mr. BONILLA, Mr. BREWSTER, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DREIER, Mr. DUNCAN, Mr. FOLEY, Mr. HAYES, Mr. HERGER, Mr. HUNTER, Mr. SAM JOHNSON, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SHAYS, Mr. STENHOLM, Mr. TAUZIN, and Mrs. VUCANOVICH):

H.R. 1915. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Economic and Educational Opportunities, Government Reform and Oversight, Ways and Means, Commerce, Agriculture, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE:

H.R. 1916. A bill to reform certain statutes regarding civil asset forfeiture; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Ms. DELAURO, Mr. GEJDENSON, Mrs. KENNELLY, Mr. BONIOR, Mr. SMITH of New Jersey, Mr. STUDDS, Mr. YATES, Mr. MILLER of California, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. ENGEL, Mr. MANTON, Mr. SERRANO, Ms. ESHOO, Mr. FILNER, Ms. PELOSI, Ms. WOOLSEY, Ms. FURSE, Mr. REED, Mr. TORRES, Ms. HARMAN, Ms. NORTON, Mr. PALLONE, Mr. MCDERMOTT, Ms. LOFGREN, Mr. TOWNS, Mr. WAXMAN, Ms. WATERS, Mr. DICKS, Mr. VENTO, Mr. WYNN, Mr. GONZALEZ, Ms. VELAZQUEZ, Mr. JOHNSTON of Florida, Mr. MARTINEZ, Mr. MARKEY, Mr. BERMAN, Mr. HINCHEY, Mr. CONYERS, Mr. ROMERO-BARCELÓ, and Mr. FALEOMAVAEGA):

H.R. 1917. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MATSUI (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 1918. A bill to amend the Internal Revenue Code of 1986 to modify the exclusion of gain on certain small business stock; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 1919. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain personal care services under the unemployment tax; to the Committee on Ways and Means.

By Ms. MOLINARI (for herself, Mr. ENGLISH of Pennsylvania, Mr. RAMSTAD, Ms. ROS-LEHTINEN, Mrs. VUCANOVICH, Mr. BURTON of Indiana, Mr. KING, and Mr. PAXON):

H.R. 1920. A bill to protect victims of domestic violence from health insurance discrimination; to the Committee on Commerce.

By Mr. SERRANO:

H.R. 1921. A bill to award a congressional gold medal to Francis Albert Sinatra; to the Committee on Banking and Financial Services.

By Mr. SKAGGS (for himself and Mr. MCINNIS):

H.R. 1922. A bill to provide for the exchange of certain lands in Gilpin County, CO; to the Committee on Resources.

By Mr. SOLOMON (for himself, Mr. GOSS, Mr. HANCOCK, Mr. UPTON, Mr. ZELIFF, Mr. NEUMANN, and Mr. ZIMMER):

H.R. 1923. A bill to balance the budget of the U.S. Government by restructuring Government, reducing Federal spending, eliminating the deficit, limiting bureaucracy, and restoring federalism; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, Banking and Financial Services, International Relations, Science, Commerce, Resources, Rules, Transportation and Infrastructure, Agriculture, Small Business, the Judiciary, Ways and Means, Economic and Educational Opportunities, the Budget, Veterans' Affairs, House Oversight, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH (for herself and Mr. ENSIGN):

H.R. 1924. A bill to designate a site for the interim storage of spent nuclear fuel; to the Committee on Commerce.

By Mr. DINGELL:

H.J. Res. 97. Joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. EVANS:

H. Res. 172. Resolution supporting the National Railroad Hall of Fame, Inc., of Galesburg, IL, in its endeavor to erect a monument known as the National Railroad Hall of Fame; to the Committee on Transportation and Infrastructure.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

116. By the SPEAKER: Memorial of the House of Representatives of the State of Louisiana, relative to Federal supported sugar programs; to the Committee on Agriculture.

117. Also memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing Congress to support the George C. Marshall Commemorative Coin; to the Committee on Banking and Financial Services.

118. Also memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to propose a constitutional amendment to authorize a prohibition against flag desecration; to the Committee on the Judiciary.

119. Also memorial of the House of Representatives of the State of Maine, relative to memorializing the Congress of the United States to extend the Maine territorial sea limits from 3 miles to 12 miles; to the Committee on the Judiciary.

120. Also memorial of the General Assembly of the State of Indiana, relative to claiming sovereignty for Indiana with regard to all powers not granted by the U.S. Constitution to the Federal Government; to the Committee on the Judiciary.

121. Also memorial of the House of Representatives of the State of Louisiana, relative to repealing the imposition of a 4.3 cents per gallon tax on jet fuel which will otherwise become effective on October 1, 1995; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PETRI introduced a bill (H.R. 1925) for the relief of Thomas McDermott, Sr.; which was referred to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mr. FAZIO of California and Mr. CONDIT.

H.R. 54: Mr. DOOLITTLE, Mr. CONDIT, and Mr. FARR.

H.R. 104: Mr. COLEMAN, Mr. KLUG, and Mr. BALDACCI.

H.R. 218: Mr. BRYANT of Tennessee.
H.R. 248: Mr. MINETA and Mr. STUDDS.
H.R. 371: Mr. RAHALL.
H.R. 373: Mr. HERGER and Mr. LIPINSKI.
H.R. 470: Mr. HOLDEN, Mr. CONYERS, and Mr. MCHUGH.
H.R. 491: Mr. NORWOOD, Mrs. VUCANOVICH, and Mr. LIPINSKI.
H.R. 530: Mr. SCHAEFER, Mr. BONILLA, and Mr. ROYCE.
H.R. 580: Mr. KLUG and Mr. HAYWORTH.
H.R. 703: Mr. REYNOLDS.
H.R. 752: Mr. KNOLLENBERG, Mr. SOUDER, Mr. POMEROY, Mr. HYDE, Mrs. KELLY, Mr. QUILLEN, Mr. WISE, Mr. DEFAZIO, Mr. LEWIS of California, Mr. CLYBURN, Mr. JOHNSON of South Dakota, Mr. LIGHTFOOT, and Mr. EVERETT.
H.R. 789: Mr. WALSH and Mr. PALLONE.
H.R. 820: Mr. ROHRABACHER, Mr. HOBSON, Mr. LEVIN, Mr. FRISA, Mr. EDWARDS, and Mr. GOODLATTE.
H.R. 863: Mr. MARTINEZ.
H.R. 882: Mr. YATES, Mr. LAHOOD, Mr. DINGELL, Mr. BAKER of California, and Mr. FLAKE.
H.R. 945: Mr. BROWN of California, Mr. QUINN, Mr. DAVIS, Mr. Young of Alaska, Mr. FRANKS of New Jersey, Ms. ROS-LEHTINEN, Mr. OBERSTAR, Mr. MANTON, Mr. BEREUTER, and Mr. FATTAH.
H.R. 989: Mr. CONYERS.
H.R. 997: Mr. BARTLETT of Maryland, Mr. CHAPMAN, Mr. ENGLISH of Pennsylvania, Ms. KAPTUR, Mr. LIPINSKI, and Mr. POMEROY.
H.R. 1005: Mr. BARRETT of Nebraska.
H.R. 1021: Mr. BALDACCI.
H.R. 1023: Mr. EVANS, Mr. BROWN of California, and Mr. LEACH.
H.R. 1100: Mr. GUTIERREZ, Ms. PELOSI, Mr. WAXMAN, and Mr. POSHARD.
H.R. 1143: Mr. KNOLLENBERG and Mr. DORNAN.
H.R. 1144: Mr. BRYANT of Tennessee, Mr. KNOLLENBERG, and Mr. DORNAN.
H.R. 1145: Mr. DORNAN and Mr. KNOLLENBERG.
H.R. 1176: Mr. PORTER.
H.R. 1229: Ms. SLAUGHTER.
H.R. 1242: Mr. BAKER of Louisiana.
H.R. 1274: Mr. HOKE and Mr. FRANK of Massachusetts.
H.R. 1279: Mr. COOLEY, Mr. RADANOVICH, Mr. BAKER of Louisiana, Mr. BARTON of Texas, Mr. HEFLEY, and Mr. JONES.
H.R. 1299: Mr. BAKER of Louisiana.
H.R. 1362: Mr. FAZIO of California, Mr. BARCIA of Michigan, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. STUMP, and Mrs. SMITH of Washington.
H.R. 1381: Mr. BONIOR Ms. VELAZQUEZ, Ms. NORTON, Mr. FATTAH, and Mr. DELLUMS.
H.R. 1496: Ms. NORTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mrs. JOHNSON of Connecticut, Mr. CRAMER, and Ms. JACKSON-LEE.
H.R. 1499: Mr. WELLER and Mr. BARTLETT of Maryland.
H.R. 1500: Mrs. CLAYTON, Mr. FLAKE, Mr. GONZALEZ, Mr. HASTINGS of Florida, Mr. MARKEY, Ms. MCKINNEY, Mr. NEAL of Massachusetts, Mr. PALLONE, and Mr. REYNOLDS.
H.R. 1544: Mr. MORAN, Mr. THOMPSON, Ms. VELAZQUEZ, and Mr. REYNOLDS.
H.R. 1580: Mr. SCHAEFER.
H.R. 1594: Mr. BAKER of Louisiana.
H.R. 1595: Mr. SOUDER, Mr. DIAZ-BALART, Mr. HASTINGS of Washington, Mr. JOHNSON of South Dakota, Mr. FROST, Mr. STUMP, Ms. DUNN of Washington, Mrs. SMITH of Washington, Mr. FORBES, Mr. THORNBERRY, Mr. SAXTON, Ms. ROS-LEHTINEN, Mr. MICA, Mr. LINDER, Mr. TALENT, Mr. SAM JOHNSON, Mr. STEARNS, Mr. BLUTE, and Mr. GENE GREEN of Texas.
H.R. 1610: Ms. SLAUGHTER.
H.R. 1614: Mr. REYNOLDS and Ms. SLAUGHTER.
H.R. 1660: Mr. STUPAK, Mr. REYNOLDS, Mr. ENGLISH of Pennsylvania, Mr. GENE GREEN of Texas, Mr. TORRES, Mr. FRANK of Massachusetts, and Mr. ROMERO-BARCELO.
H.R. 1680: Mr. POMEROY.
H.R. 1700: Mr. MILLER of California and Mr. EVANS.
H.R. 1715: Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BISHOP, Mr. BOEHNER, Mr. BURR, Mr. CANADY, Mr. CLYBURN, Mr. COBLE, Mr. COMBEST, Mr. GALLEGLY, Mr. GREENWOOD, Mr. GUNDERSON, Mr. HOLDEN, Mr. JACOBS, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. OLVER, Mr. ORTIZ, Mr. PICKETT, Mr. THOMAS, and Mr. WELDON of Florida.
H.R. 1735: Ms. SLAUGHTER.
H.R. 1744: Mr. KLECZKA and Mr. ROHRABACHER.
H.R. 1753: Mr. STOCKMAN, Mr. STUMP, Mr. SERRANO, Mr. FILNER, Mr. ROMERO-BARCELO, Mr. WALSH, Mr. TOWNS, Mr. MATSUI, Mr. MOAKLEY, Mr. HOLDEN, Mr. CALLAHAN, Mr. COSTELLO, Mr. MILLER of California, Ms. BROWN of Florida, Mr. CONYERS, Mr. STOKES, Mr. CLINGER, Mr. LIPINSKI, Mr. LEWIS of California, Mr. WAXMAN, and Mr. BLILEY.
H.R. 1764: Mr. ROHRABACHER.
H.R. 1774: Mr. HALL of Ohio, Mr. UNDERWOOD, and Ms. JACKSON-LEE.
H.R. 1775: Mr. FILNER.
H.R. 1791: Mr. BURR, Mr. EHLERS, and Mr. CARDIN.
H.R. 1821: Mr. BAKER of California and Mr. TORKILDSEN.
H.R. 1876: Mr. PALLONE, Mr. LIPINSKI, Mr. ACKERMAN, and Mr. GONZALEZ.
H.R. 1893: Mr. PAYNE of Virginia and Mr. LAFALCE.
H.R. 1897: Mrs. MINK of Hawaii.
H.J. Res. 79: Mr. CLYBURN.
H.J. Res. 89: Mr. DAVIS, Mr. BURTON of Indiana, Mr. RAHALL, Mr. KIM, Mr. GUNDERSON, Mr. MCCRERY, Mr. CHAMBLISS, and Mrs. THURMAN.
H. Con. Res. 10: Mr. JACOBS, Mr. MCDADE, and Mr. WAXMAN.
H. Con. Res. 12: Ms. PELOSI.
H. Con. Res. 26: Mr. MARTINI, Mr. BENTSEN, Mr. ENGEL, Mr. BLUTE, Mr. DORNAN, Mr. SHAYS, Mr. WAXMAN, Mr. HUTCHINSON, Ms. NORTON, Mrs. MORELLA, Mr. WELLER, Mr. BERMAN, Mr. FORBES, Mr. PALLONE, Mr. SMITH of New Jersey, and Ms. SLAUGHTER.
H. Con. Res. 54: Mr. PALLONE.
H. Con. Res. 63: Ms. PELOSI and Mr. SALMON.
H. Con. Res. 76: Mrs. SCHROEDER, Mr. WAXMAN, Mr. VENTO, Ms. PRYCE, Mr. VISCLOSKY, and Ms. MCKINNEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R.

(Interior and Related Agencies Appropriations for Fiscal Year 1996)

OFFERED BY: MR. CUNNINGHAM

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used by the Department of the Interior—

(1) to conduct a lease sale or issue a lease for oil or gas under the Outer Continental Shelf Lands Act in the Southern California, Central California, of Northern California Planning Areas; or

(2) to approve any exploration plan, development and production plan, or application for permit to drill, or permit any drilling, for oil or gas under the Outer Continental Shelf Lands Act on any lands of the Outer Continental Shelf in the Southern California, Central California, or Northern California Planning Areas.

H.R.

(Interior and Related Agencies Appropriations for Fiscal Year 1996)

OFFERED BY: MR. UNDERWOOD

AMENDMENT NO. 2: In title I of the bill, decrease the amount appropriated for technical assistance and maintenance assistance under the heading ''Territorial and International Affairs'', by $2,580,000 and $2,000,000, respectively.

In title I of the bill, appropriate $4,580,000 to Guam for impact aid under Public Law 99–239 (relating to the Compact of Free Association).

H.R. 1868

OFFERED BY: MR. BROWNBACK

AMENDMENT NO. 64: Page 12, line 8, strike ''$7,000,000'' and insert ''$3,000,000''.

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike ''$595,000,000'' and insert ''$619,000,000''.

H.R. 1868

OFFERED BY: MR. BURTON of Indiana

AMENDMENT NO. 65: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO INDIA

SEC. 564. None of the funds appropriated in this Act under the heading ''Development Assistance Fund'' may be made available to the Government of India or non-governmental organizations and private voluntary organizations operating within India.

H.R. 1868

OFFERED BY: MR. ENGEL

AMENDMENT NO. 66: Page 63, after line 4, insert the following new section:

SEC. 540A. RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

H.R. 1868

OFFERED BY: MR. ENGEL

AMENDMENT NO. 67: Page 63, after line 4, insert the following new section:

SEC. 540A. SENSE OF CONGRESS RELATING TO RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—It is the sense of the Congress that, notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the

National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, should cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

H.R. 1868

OFFERED BY: MR. GOSS

AMENDMENT NO. 68: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held pursuant to the requirements of the 1987 Constitution of Haiti.

H.R. 1868

OFFERED BY: MR. MENENDEZ

AMENDMENT NO. 69: Page 78, after line 6, add the following:

WITHHOLDING OF ASSISTANCE TO COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided on or after the date of the enactment of this Act by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 70: Page 16, line 24, strike $595,000,000'' and insert ''$565,000,000''.

H.R. 1905

OFFERED BY: MR. BARRETT OF WISCONSIN

AMENDMENT NO. 3: Page 16, line 1, after the dollar amount, insert the following: ''(less $5,000,000)''.

H.R. 1905

OFFERED BY: MR. BARRETT OF WISCONSIN

AMENDMENT NO. 4: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. Of the funds appropriated in this Act under the heading ''Energy Supply, Research and Development Activities'', not more than $10,000,000 shall be available for hydrogen research.

H.R. 1905

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 5. At the end of the bill, add the following new title:

TITLE —DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. . (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Deficit Reduction Trust Fund'' (in this title referred to as the ''Fund'').

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—The Secretary of the Treasury shall transfer to the Fund an amount equal to the allocations under section 602(b)(1) of the Congressional Budget Act of 1974 to the subcommittee of the Committee on Appropriations with jurisdiction over this Act minus the aggregate level of new budget authority and outlays resulting from the enactment of this Act, as calculated by the Director of the Office of Management and Budget.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 6: Page 16, line 2, insert before the period the following:

: *Provided*, That, of such amount, not less than $74,129,000 shall be available for photovoltaic energy systems, not less than $25,329,000 shall be available for solar thermal energy systems, not less than $40,000,000 shall be available for wind energy systems, not less than $28,115,000 shall be available for geothermal, and not more than $323,628,000 shall be available for materials sciences: *Provided further*, That within such $323,628,000, not more than $113,954,000 shall be available for non-research, including (but not limited to) facilities and operations.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 7: Page 16, line 1 strike ''$2,596,700,000'' and insert ''$2,576,700,000''.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 8: Page 25, line 6, strike ''$142,000,000'' and insert ''$0''.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 9: Page 29, line 1, strike ''$103,339,000'' and insert ''$0''.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, JUNE 22, 1995 No. 103

Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Great is the Lord, and greatly to be praised and His greatness is unsearchable. I will mediate on the glorious splendor of Your majesty—Psalm 145: 3, 5.

Almighty God, help us to think magnificently about You: Your glory and grace, Your greatness and goodness, Your peace and power. We acknowledge that our prayer is like dipping water from the ocean with a teaspoon. Whatever we receive of Your infinite wisdom and guidance, it is infinitesimal in comparison to Your limitless resources. So we come humbly and gratefully to receive, to draw from Your divine intelligence what we need for today's deliberations and decisions. We thank You for the women and men of this Senate and their staffs who support their work. Help them humbly to ask for Your perspective on perplexities and then receive Your direction. Give them new vision, innovative solutions, and fresh enthusiasm. We commit this day to love and serve You with our minds. Today, when votes are counted on crucial decisions, help them neither to relish victory nor nurse the discouragement of defeat, but do everything to maintain the bond of unity in the midst of differences and then move forward. This we pray in Your holy name. Amen.

The PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of South Carolina, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SANTORUM. I thank the Chair.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business.

BALANCING THE BUDGET

Mr. SANTORUM. Mr. President, I rise this morning to begin the freshman focus. The freshman class, all 11 of us of the 104th Congress, have taken about the role of coming to the floor on a regular basis to focus the Senate on issues of importance really to the next generation of Americans. We believe that as freshmen we have a special role to play in looking toward the future and seeing how we can focus the attention of the Senate on solving the long-term problems that face this country.

Today, under the able leadership of Senator THOMAS from Wyoming, who has been a real champion in organizing this effort and bringing the freshman class in the Chamber on a very regular basis, we are going to talk about the Clinton ''budget.'' When I say Clinton ''budget,'' I use the term ''budget'' in quotes because we do not really have what I think anyone would seriously consider a detailed budget of how the President is going to solve the deficit problem that faces this country. In fact, we have 6 pages—photocopied on both sides, that is 12 pages total—of budget specifics as to how he is going to reduce the budget deficit to zero over the next 10 years.

Now, it is interesting; if you look at what is going to be required to balance the budget over the next 10 years, it requires about $1.6 trillion in spending cuts. That is according to the Congressional Budget Office.

Now, you say: How do they figure that out? How does the Congressional Budget Office come up with the assumption that we need to cut spending an aggregate amount of $1.6 trillion? They make certain basic assumptions, economic assumptions.

The economic assumptions that the Congressional Budget Office makes is a percentage growth in the economy. They say, well, we estimate over the next 10 years that the economy will grow on average a certain percentage per year. The estimates, frankly, if you look at them, are pretty flat. I think about 2.3 percent growth per year over the next 7 years because they were doing a 7-year budget.

Now the President has come up with 10. They extended it up to 10 years. It does not take into account recessions. And most economists will tell you, over the next 10 years we are scheduled to have at least one recession, probably two recessions. Now, they may not be deep recessions, but they will talk about much lower rates of growth and maybe even some negative growth during that period of time.

Now, what happens when we have recessions? Well, when we have recessions, tax revenues go down, expenditures to the Federal Government go up because unemployment claims go up, welfare payments go up, other kinds of Government supports, safety net programs, are much more in use.

The Congressional Budget Office, I think, was sort of averaging out the high and low periods of growth above 2 or 3 percent and periods of growth below and saying, on average, it is roughly 2.3 percent or maybe a little higher, 2.4 percent in the future.

They also make an assumption on interest rates. Why are interest rates important? Well, when you have nearly $5 trillion of debt that you have to finance, interest rates are important. The higher the interest rates, the higher the interest costs, the higher the

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

Printed on recycled paper.

deficit. So interest rate projections also affect what the bottom line deficit will be. So they have projected out interest rates, again on a conservative basis, because again interest rates fluctuate. If you look at the last 10 years of the history of this country, the interest rates went from double digits to 3 to 4 percent. So you may see a wide variation in the next 10 years. In the next 10 years, you will see a wide variation. They try to work it out, act conservatively. You want to have realistic numbers here. And they came out with some interest rate projections.

Now, they use the combination of growth projections and interest rate projections to determine their basic economic assumptions of what the deficit will be. And then they say, ''Now, to meet zero, you have to cut so much money out of Government programs or raise taxes to get to zero.''

How does the President accomplish his 10-year balanced budget? Well, he does not do it by looking at what the Congressional Budget Office has done and then making the spending cuts or tax increases necessary to get to a balanced budget. In fact, in his plan he has, instead of $1.6 trillion over 10 years which is needed to balance the budget according to the Congressional Budget Office, he has $1 trillion in cuts, substantially less than what is necessary. Yet he gets the balance.

You say, How does he do that? How does he cut less money than is required to get the balance and still get there? Here is how he does it. He does it by changing the assumptions. He assumes a higher rate of growth in the economy. He assumes lower interest rates. Sort of wishes it away. Just decides, ''Well, we know we will have higher growth and lower interest rates, and as a result we will have less financing costs. Because interest rates are lower, we will have higher rates of growth, which means more tax revenues and less Government expenditures. So we will reduce the debt through economic assumptions.''

Well, that is nice. It is an easy way to do it. I guess if he wanted to, he could go back and just estimate even higher growth rates and lower interest rates and not have to do anything. But that is not real.

What is the actual effect on the numbers? It is interesting. Look at Medicare. Under the President's budget, if you look at the President's Medicare number, not what he says he is going to have to reduce spending by in Medicare, but the actual amount of money he spends on Medicare every year over the next 10 years, in the first 3 years the President spends less on Medicare than we do, but it is not as big a cut as we have. Now, you say, ''Wait a minute. How can that be? If he spends less on Medicare next year than we do under the Republican budget, less on Medicare in year two than we do on Medicare and less on Medicare in year three, how can his cuts be less?''

Well, he assumes a lower rate of growth in Medicare and then cuts from that. So what he has done is—we have growth of 10 percent per year programmed in because that is what Medicare is doing. It is growing at about 10 percent a year. We have that programmed in for the next 10 years. What the President has done is he assumes, first, that Medicare growth is not going to continue at 10 percent, it will only continue at 7 percent and then cuts from that. So, as a result, the cut is not as much, but the number is actually lower than the number that we are using. So he sort of cuts in part by assuming it away and cuts the other part by actually doing it.

So, to suggest that the President is going to cut Medicare less than we are or change Medicare less than we are is just ridiculous. His numbers actually are lower than our numbers.

So, I would just suggest, if you look at the specifics of what the President has done, he has assumed away this budget deficit. He has suggested that we can get rid of the budget deficit by having rosy economic projections, rosy projections on growth and interest rates and not do the hard work of actually having to make decisions on how we are going to pare back the size of Government.

As a result of that, as a result of his unwillingness to face the music, to use the Congressional Budget Office projections, which he said in the State of the Union, just down at the other end of this hallway, right down here. Walk out the middle door here and just keep walking and you will come to the House of Representatives. And you walk through that door and keep walking, you will walk right into the podium of the House of Representatives. Right there, right at the other end of the hall, the President got up and said, ''We will use the Congressional Budget Office scoring because they have been the best at doing it. We all have to use the same numbers.'' He said that.

Now, I know it is going to come as a shock to many that he has not lived up to his promise, but he did not. He is not using their numbers anymore. Why? Well, the same reason every President has not used their numbers. Because their numbers are tougher. It is harder to balance the budget when you use real numbers. It is easier when you get your friends at the Department of the Treasury to sort of wish this stuff away. Well, unfortunately we cannot wish it away.

Mr. THOMAS. Will the Senator yield?

Mr. SANTORUM. If the Senator will suspend for 1 second. I want to make sure that we end with day 34 of the President's unwillingness to come to the American people with a serious budget proposal to balance the budget. We are now in day 34, as I said before. We only have 101 days to go before the next fiscal year. As I said before, I will probably put a little thing over here for the ''1.'' Hopefully I will not have to. Hopefully I will not have to come back. But until the President gets serious about this and is honest with the American public about how they are going to balance the budget, I am going to be back.

I will be happy to yield.

Mr. THOMAS. If the Senator would yield. Let me first say how much I appreciate and congratulate the Senator on his continuing efforts to get some real understanding. I think some time ago the freshman class, those elected to the body in November, came here more dedicated to more serious work to balance the budget than about any other issue. One of the most difficult things for all of us, particularly people listening and voters, is what are the real facts? I mean, we start out and everybody wants to balance the budget. ''Well, we do not need an amendment,'' they say. ''We will do it.'' Then we come down to do it. But we cannot do it on the backs of these. You cannot do it here.

I guess my question is: It is sort of interesting that most of the President's budget is backloaded, and it happens after the year 2000. Now, that is 6 years from now. That is the rest of this Presidential term and one other term. Is there any significance to the fact that most of the pain comes after the year 2000?

Mr. SANTORUM. As a matter of fact, if you look at the percentage of the cuts the President makes in discretionary and mandatory programs, all the cuts he has to make, 20 percent of them—we have 10 years in the President's budget. You would think that the responsible thing to do would be to cut the budget—if you are going to do 100 percent of his cuts, if you take all the cuts he is going to make, you do it equally over the period of years, a straight line, 10 percent a year; 10 years, 100 percent of the cuts.

What the President does is cut very little the first year, cuts virtually nothing. In fact, of all the cuts he suggests, only 2 percent occur in the first year. If you look at the second year, only 3 percent occur in the second year. After the first 2 years, when you should have cut 20 percent to get on your line of 100 percent, he has cut 5 percent. You go to the third year, he cuts 5 percent. So over the first 3 years he has cut 10 percent of the amount needed to cut over the 10 years.

Where are the big cuts? Where is the big lifting, the heavy burden the last 2 years, the last 3 years? Twenty percent in the last year; 18 percent the year before that; 15 percent the year before that.

I mean, well over—well, about 50 percent of the cuts occur in the last 3 years. So he back-end loads this thing. He does not do heavy lifting early on. It is left to the next generation, not surprisingly, and next Presidents to deal with this.

Again, that is another form of wishing it away. I am sure every President has presented budgets at one point in

time that suggest they will balance the budget, but they never suggest we do it starting now, they always suggest we do it down the road sometime. That is not the responsible way to do it.

Mr. ASHCROFT assumed the Chair.

Mr. THOMAS. It is interesting that Mark Phillips from the Concord Coalition says:

> Funny thing about these elusive outyears, they never seem to arrive.

Is it not also true that the tax reductions, the tax cuts the President has go into effect much earlier than do the spending cuts?

Mr. SANTORUM. That is always the way it is with taxes. For example, you can look at the Clinton budget in 1993. We had tax increases and spending cuts. Tax increases went into effect right away. We felt all those tax increases immediately. What we have not felt yet from the first budget in 1993 of the President is the spending cuts. They do not come around. They have not occurred. So now we are back and having to make the tough decisions on actually reducing spending.

Again, the Senator is right with the tax cuts. The President wants to get the tax cuts in now because it is election time; you want to help people out, give back a little of their taxes. Now he wants to cut them right before the election. It is clear, the spending cuts do not come.

Mr. THOMAS. One question. This is sort of unclear. We had the President, of course, and his advisers saying it was not prudent to set a time. That is when we had 7 years and he had no budget. Now he has a time and Mrs. Tyson says that is exactly what we should do, even though she decried it before.

Mr. SANTORUM. Decried it, she was outraged that someone would do this. This was going to be the fatal blow to our economy. She went at great length to say that setting a time certain to bring the budget into balance would be disastrous for the economy, and now that the President has been convinced to do it, it is now a good idea.

It amazes me, it absolutely amazes me how they just—as Representative OBEY from Wisconsin said about the President of his party—President Clinton's decision is like the weather, if you do not like it, wait and it will change. I think that is pretty much the way his advisers see it, that he has no responsibility to tell the country what they believe; their responsibility is to tell the President a line on what they believe.

Mr. THOMAS. The Senator is right. Mrs. Tyson, on February 6, said that their deficit path is a sound deficit path, both for the economy in the near term and forcasting the economy, something she said they were dealing with, that they have it under control.

This was in February, and then this body rejected that budget 99 to zip. She said more recently that we have to balance the budget, we want to get a balanced budget and to do it in a time certain that makes some sense.

My question is, though, under the best analysis—it is confusing—will this 10-year budget that has been sent down by the President balance in 10 years?

Mr. SANTORUM. This is hard. It is very hard for Members of the Senate and I know the general public to look and say, How does this all work, because you are looking 10 years down the road, in the case of the Republican budget 7 years down the road.

How do they know what they are going to do is actually going to accomplish a balanced budget? Like anybody else who has to deal with projections in the future, whether you are a businessman making projections or a family trying to save for a college education, whatever the case may be, if you are looking into the future and trying to plan things, everyone will tell you, every financial adviser, everybody else will say,

> Be conservative in your projection; don't assume that things are going to be great, and everything. Let's try to take a realistic, not worst case—because you don't want to always assume worst case—but take a realistic underestimation of what you think will happen and plan on that. That is sort of a good conservative way to look at it. Don't give it up, don't give the store all away by wishing rosy projections.

That is what the Congressional Budget Office has done. What the President has done has really not been the prudent thing to do. What he has done is just assume everything is going to be great, that we will not have a recession.

Think about this, that we will not have a recession in the next 10 years; that we will not have high interest rates over the next 10 years, that everything is going to continue to grow at a very steady and healthy pace over 10 years. Never has that occurred in a post-World War II economy. Never has that occurred. But yet the President estimates that to be able to achieve his goals.

So as a result, I think most economists who have looked at this have said this is unrealistic, this is not going to happen and what the President has done is simply not belly up to the bar and tell us how he is going to really do this. As a result, we are going to see deficits. If we go the Clinton route, we are going to see deficits well into triple figures, well into the billions.

Mr. THOMAS. I thank the Senator. I have to say, again, I cannot think of anything more important to this country and more important to all of us than having a legitimate debate about facts with regard to balancing the budget, and the idea that somehow we can politically balance the budget and the pain comes in 10 years and we doctor the figures so that it looks good simply does not deal with the problem that is a real national problem to you and to me and to our kids and our grandkids.

So I appreciate very much the efforts that the Senator has made to seek to get these facts out.

Mr. SANTORUM. I say to the Senator that the view he just expressed is a view that is shared by folks across the political spectrum. The Washington Post yesterday, or the day before, I do not remember which, editorialized—one of the great staunch defenders of this President—editorialized against the President and his budget and his assumptions and how he went about coming to his balanced budget and said that the President hurt himself and his credibility, which is difficult to do, but it hurt his credibility by proposing a budget that simply is a smoke-and-mirrors, wishing-the-problem-away kind of budget.

So I think objective sources have looked at what the President has done and rejected it out of hand as a political document, going up on national television, with a 5-minute address trying to, again, through speeches, convince the American public he is on their side. But when you see the actions, the actions do not match the words. Whether it was on his health care speeches or whether it is on his welfare reform speeches or whether it is on the budget deficit, the President will give a great speech. He will give a great speech. He always does. He is a good communicator, and he will get up and give a great speech about what he believes in. But do not listen to the speech, watch what he does. Look at the documents. Look at the plans. Look at what he actually is proposing. Ignore the speech and watch the actions, and you will find that the speech does not match the actions and the actions come well short of what is needed to solve these problems.

Mr. INHOFE. Will the Senator yield on that point for a moment?

Mr. SANTORUM. Yes, I yield.

Mr. INHOFE. I had an experience I will share with the Senator. As I do every Thursday morning, I did a talk radio show back in my State of Oklahoma. I am sensing something that I did not sense in the last few years and that is an awareness—and I think maybe this came with the election of November 1994—the people are finally aware of what is really going on in this country.

They brought this up and I went back and looked it up. They said they have added up the figures—maybe you already talked about this—but in this revised budget he sent down, the figures come up, according to CBO, to over $1 trillion added to our debt.

Keep in mind, this is from a talk radio show, listeners calling in from Oklahoma today stating that they are actually aware of how much this is being added to the debt. For so many years, the average person in America did not really stop and think about the difference between deficit and debt. So they listened to the President come in and talk about, as President Clinton did during his campaign, that he had a program that was going to eliminate the deficit and had great deficit reductions.

I have often recommended to people to read an article that was in December's Reader's Digest called ''Budget Baloney'' where they describe how politicians try to deceive the people back home as Clinton is trying to do today by making them think that they have a program that is going to eliminate or cut the debt in some way. They describe it this way: Suppose you want a $10,000 car but only have $5,000; you tell everybody you really want a $15,000, so you settle for a $10,000 car, so you have cut the deficit by $5,000. That is essentially what he is trying to do.

The American people are awake now and the people know the difference. They are better informed. And if any message came from the election of November 8, it is that we are tired of the smoke and mirrors, as the Senator from Pennsylvania describes it so accurately, and we want action for a change.

I remember in 1993, in his budget message, the President stood in the House Chamber and said that the CBO is the most reliable operation here—not OMB, not any of the rest, but CBO. Yet, CBO says that his deficits are going to average, over the next 10 years, about $200 billion. So we are talking about a $2 trillion increase in our national debt. The people are not going to tolerate that.

Mr. THOMAS. If the Senator will yield, it seems to me there are a couple of reasons why we are becoming more aware—tangible reasons. We have had a debt and deficit for a long time and we all kind of brushed it off and put it on the credit card. But now we are going to have to raise the debt limit $5 trillion this year and probably another one before this administration is out.

Second, interest payments become probably the largest single line item in the budget next year—probably more than defense. So that becomes real. It takes money out of people's pockets and from other things. Finally, there is the example, it seems to me, of Medicare. It is not a question of whether you do something; it is a question of whether you have reform, or you will be into reserves in 2 years and broke in 7 years. So we have played with this as an abstract thing over the years, I believe, and now all of us are beginning to believe it is not abstract. It is very real and it is there. I just think it is so important that we deal with facts. There is some pain involved. But to try and act as if there is none, that just will not handle the problem.

Mr. INHOFE. I agree with the Senator. But when you say there is pain involved, look at the pain that is associated with continuing on the road we are on right now. The Senator from Pennsylvania just had a young child, and I congratulate him. I hope people realize this young man just had a brand-new baby boy. During that baby boy's lifetime, if we do not change the pattern that we are on right now, according to all of those who are prognosticators of the future, he will have to pay 82 percent of his lifetime income just to support Government.

I remember the other day during our national prayer breakfast we had somebody from one of the Communist countries prior to the time they got their freedom. He bragged and said they only have to give the Government—he said, ''We get to keep 20 percent.'' I said, ''What do you mean?'' He said, ''Every month or so, we have to give the Government 80 percent of everything we make.'' And he is celebrating that. I thought about that. Senator SANTORUM's newborn baby is going to have to pay 2 percent more than that to support Government if we do not make a change. He is too young to be able to come in and lobby and say do not do that to us.

So we hear from all these people saying they are going to cut these social programs. Here we are with a defense system right now that is going to be down below what it was in 1980 when we could not afford spare parts. Those things we really need Government for are being neglected by this administration, and I think the people have awakened.

Mr. SANTORUM. I want to say that the Joint Economic Committee is going to have a hearing on the President's budget. I am a member of that committee. I am looking forward to hearing the President's people on his budget and these economic assumptions.

It is, in my opinion, a very cruel hoax on future generations, and on the current electorate, to suggest that we can balance the budget without doing the things that are necessary in reducing spending and changing Government, and that are required by any sound economic view of the future. We are going to talk about that today. Senator MACK has stepped up and said we are going to look at the Clinton budget, examine it and give him an opportunity to convince us that he is right. I am looking forward to that. I am willing to give the President and his people their day, but I am very distressed at this continuing pattern of this President, just trying to pull the wool over the eyes of the American public.

The fact of the matter is that the folks, like my son, Daniel, who was born on Father's Day, are the people that are going to have to pay the price and consequences of the actions we have today. Somebody has to come to the floor of the Senate and defend those children's future. The Senator from Oklahoma is right. They do not have a chance to talk for themselves, so someone has to stand up and do it for them.

My father is an immigrant to this country, and I remember talking to my grandfather on many occasions about why he came to this country and brought my father over as a relatively young person. He said, ''Well, the biggest reason he came to America is because he wanted a better life for his children.''

Now, have we gone so far in this country, where this generation of Americans cares more about themselves than about their families and their futures? If we have, what does that say about the likely prospects for the future of this country?

What we have is a bunch of people, including the President, who come before the American people and try to scare them into believing that somehow we are going to hurt them and that we, the Republicans, do not care about them, and scare them into keeping the status quo in place, which they know hurts future generations, but, frankly, future generations do not vote now.

Mr. INHOFE. I suggest to the Senator from Pennsylvania, your father sounds like he was a student of history and he looked at what this country is all about. It reminds me that if we remember in our history, when de Tocqueville came here, he came over to study our business system. He was so impressed with the great wealth this Nation had accumulated that he wrote a book. The last paragraph says that once the people of this country find out they can vote themselves money out of the public trust, this system will fail.

We are so close to that point, and yet, this great discovery that was reflected in the election of November shows me that people are saying that we are almost there and we cannot afford to let it continue.

The one thing that the three of us have in common is we are all freshmen, we are new here. I think maybe that is why we are a little bit more exercised on this. We remember the mandate very well. That is all I heard during not just the election, but I have had 77 town meetings since the election. The first thing coming out of the chute is the budget. ''I do not care what you do, do something to stop the deficit.'' That is what we are committed to doing.

Mr. THOMAS. The Senator mentioned something about de Tocqueville. Earlier in his book he said, as he looked at the new democracy and he looked at the new system of people governing themselves, which at that time was a new experiment, he said that the strength of this country was people doing for themselves and helping each other on a local community basis. That is very true. Now we move more and more—and the budget has to do with the direction we take in Government, certainly. When we decide to have less Government which is less costly, we do that as a philosophy, and most everybody subscribes to that. This is the labor that goes with it to cause that to happen. You know, it is all tied together, and we cannot be responsible morally and fiscally, unless we do something about this imbalance that has gone on for 25 years.

Mr. INHOFE. We also have to realize—I do not want to take us off the track of the budget, but de Tocqueville

was also concerned about some of the social problems he saw forecast in this country. He said,

America is great because America is good. When America ceases to be good, America will cease to be great.

So a lot of people in our history, going all the way back to Washington, talked about and addressed public debt, and Jefferson was also outspoken on this. I think we are here in a political revolution in this country, and I think it is an exciting thing. The President will have to be very persuasive.

Mr. THOMAS. Does Senator SANTORUM have a de Tocqueville quote, also?

Mr. SANTORUM. No, I do not, but I do have an editorial from one of my papers, in the Lancaster Intelligencer, which said that the difference between the Republican budget and the President's budget, and they were very supportive of the President's budget, is that the President's budget is compassionate. The President's budget is compassionate because it does not tear apart all these programs that are here in place in Washington.

I would suggest to them that compassion—if compassion is measured by a group of people in Washington willing to take people's hard-earned money and give it to people that they see fit to give it to, if that is the measure of compassion I can tell you it is very easy for me. It is no skin off my back to vote money from somebody else and give it to somebody else.

Some people say that is compassion. If I go to someone who is working 16-hour days, 6 days a week, and I tax him more money and give it to somebody else who may not be working as hard or may have a problem, whatever the case may be—I am sort of removed from this. It is not hurting me. I am not taking any money from me here. I am taking it from somebody else and giving it to somebody else. Where is that compassion?

The word compassion, if you look at the derivation of the word compassion, it means ''with suffering.'' I am not suffering with anybody. I am not suffering with anybody. I am telling you to give money. And I am taking it from you and giving it to him. Where am I involved in the suffering here? There is no suffering.

It makes you look nice. It is great to be able to go into a community where you are handing out money. Look, I love to present checks. Oh, it is great to take other people's money, who worked hard for it, and have me give it to people. It is a wonderful feeling. You feel great. But are you really compassionate? Is that action truly compassionate? Is there any ''suffering with,'' that is going on here? No, no, it is not compassion at all. It is politics. And it is easy and it is fun. Oh, I know it is fun to just take that money away from those people who are making too much money and give it to folks who are not making enough. It is sort of the modern day Robin Hood. But there is no suffering here.

What the Senator from Wyoming said is absolutely right. This country is a great country because we have people who cared about people, who did ''suffer with,'' who did care about their neighbor, who did know who their neighbors were and went out and did something about it. And because Government has gotten so big and is starting to do so much for people, we stop doing so much for each other because it is not our job anymore. It is not our job to help take care of our fellow neighbor. There is a Government program that does that and just call this office, toll free.

That is not what made America great. Toll-free numbers for calling a Government bureaucrat is not what made America great. What made America great, what the Senator from Oklahoma said, is the goodness of America. I can tell you there is nothing good about taking money away from people who work hard for it and giving it to people who we want to for whatever reason we want to. That is not good. That may be necessary in some cases. There are people in this country who do need help and there are Government programs that do it. But do not come here and say that is good, or that is compassionate. It may be necessary sometimes.

What is good is if you participate individually, if you get out there and help your neighbor and become part of the fabric of community, which is what de Tocqueville wrote about over 100 years ago. That is what makes America great. That is what we are trying to get back to—understanding that families and communities and neighborhoods are important to the fabric of our society. And if we continue to lose them we will lose America.

So, the Lancaster Intelligencer is dead wrong. There is nothing compassionate about keeping the Federal Government in control of people's lives. It is anything but compassionate because there is no suffering here. There is only more suffering out there.

Mr. THOMAS. The Senator has made a great point. One of the exciting things, it seems to me, about this Congress is that we have for the first time in many years an opportunity to take a look at Government programs that have been in place for 30 or 40 years, such as the War on Poverty—which has failed. There are more people in poverty now than when it began.

So we are not talking about taking away the safety net. We are not talking about doing away with the assistance to people who need assistance. In welfare we want to help those, but help them back into the workplace. And that is exciting, to have for the first time a chance to say, Is there a better way to provide this assistance? Is there a more efficient way to do something, rather than just continuing to fund failed programs? I think that is the exciting thing we are doing.

Mr. INHOFE. I think it is inherent in the bureaucracy. We have to address it that way.

I can remember a very famous speech that was made, back in 1965. My colleague and I, we may be freshmen here but we are the two oldest Members of the freshman class. We can remember this well. The speech was called ''A Rendezvous With Destiny'' by Ronald Reagan. It was his first political speech. It was back during the Goldwater campaign.

In this speech he said something very profound. He said, ''There is nothing closer to immortality on the face of this Earth than a Government program once started.''

I learned this lesson when I was mayor of the city of Tulsa. This is kind of an interesting story and tells you what is happening here today.

I went in and made a decision that over a 5-year period I would keep the level of government, city government, the same size yet increase the delivery of services. I did this because at that time the average large city doubled in size every 5 years. I thought, let us try to stop that. So I started firing people for inefficiency. And when I saw them later and said, ''I thought I fired you,'' and they said, ''Well I have been reinstated,'' I found out in government you cannot fire people for inefficiency. I found the way to do it. You defund departments and get them all.

There are some bureaucracies that were at one time performing a function that was needed; the problem went away, but the bureaucracy continues. This is what we are talking about, going through, having sunset provisions where we can say, Is this thing really needed? Is this in the public interest anymore, as it was 40 years ago when that particular agency was started?

It is not a lack of compassion, as the Senator from Pennsylvania has said in such an articulate way, because we are compassionate. But when I have town-hall meetings, I talk to senior citizens. Sometimes when I have them during the day, 90 percent of them are senior citizens or retired people. They come up. Of course when you tell them what is going to happen if we continue on this road, what is going to happen to their grandchildren and great grandchildren and generations to come, I find these people are not selfish. They just do not want to be cut unless others are cut.

The Senator might remember when the Heritage Foundation did a study here a few years ago where they said if you put on a growth cap of 2 percent for just a matter of 5 years on all Government spending, you will balance the budget in that period of time and will not have to cut or eliminate one Federal program. Just stop the increase, the accelerated growth. That is, I think, what we are trying to do.

Mr. THOMAS. That is the interesting and not well understood point. Two years ago—when the President talks

about deficit reduction, the fact is there was no cut in spending. The fact is the spending still continues at 5 percent and the cuts, the deficit reductions were bookkeeping things and raising taxes. We still continued. So we are talking not about cutting overall spending. We are talking about reducing the growth. I thank the Senator.

Mr. INHOFE. The Senator might remember, he and I were both in the House of Representatives back when President Bush—I criticized him publicly because of some of the assumptions he came up with in his budget resolution as to growth assumptions. A lot of people do not realize for each 1 percent growth in economic activity, there is a generation of new revenue of about $24 billion. He was a little overly optimistic on some of the projections his people put forward for him also on gas tax revenues and some of the other things.

I think we want to be realistic. We want to get to where we are going and that is to eliminate the deficit by the year 2002. I would like to do it by the year 2000 instead of 2002. I think most of us would. But we are on the road to doing something realistic. Let us stay with it.

Mr. THOMAS. We are. I thank the Senator for his comments.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

SMALL RURAL HOSPITALS

Mr. GRASSLEY. Mr. President, I will join Senator BAUCUS and Senator ROCKEFELLER in introducing the Rural Health Improvement Act of 1995.

The purpose of this legislation is to establish within Medicare a rural hospital flexibility program.

Such a program is badly needed. Many smaller rural communities, and their hospitals, are unable to sustain the full range of hospital services necessary to qualify for participation in the Medicare Program. There are several reasons for this. Among the most important is that the Medicare rules and requirements for full service hospitals are burdensome and inflexible. Compliance with them is difficult for smaller rural facilities. Furthermore, Medicare reimbursement is inadequate. This latter problem is compounded by the fact that these hospitals are likely to be dependent on the program—most of their patients in any given year are likely to be Medicare beneficiaries. Thus, most of their reimbursement comes from the Medicare Program.

As a consequence, under the current Medicare rules and reimbursement levels, many of these small, rural hospitals across the country could go out of business. If they do, their communities would lose their current access to emergency medical services.

This legislation could make the difference between survival and closure for these hospitals. In Iowa, there are at least 10 hospitals, perhaps more, which could qualify for participation in the program this legislation would establish.

This legislation would help those hospitals to continue offering essential hospital services in at least four ways: It would provide more appropriate and flexible staffing and licensure standards. It would reimburse both inpatient and outpatient services on a reasonable cost basis. It would promote integration of these hospitals in broader networks by requiring participating States to develop at least one rural health network in which the rural critical access hospital would participate. And it would require the Secretary of Health and Human Services to recommend to the Congress an appropriate reimbursement methodology under Medicare for telemedicine services.

Hospitals which participate in this program could thus continue to provide an essential point of access to hospital level services in their rural communities. Essentially, these hospitals could pare back the services they offer to emergency care services and to 24-hour nursing services, while continuing to participate in the Medicare Program on a reasonable cost basis. In this way, they would continue to be the major point of access to emergency medical care in their communities.

Again, I am pleased to join my colleagues, Senator BAUCUS and Senator ROCKEFELLER, and I commend their leadership on this problem.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as if in morning business for 6 minutes.

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

THE PRESIDENT'S BUDGET

Mr. FRIST. Mr. President, I wish to continue the discussion begun this morning by my fellow freshman Senators on the President's budget proposal introduced last week.

Mr. President, I am pleased to see that President Clinton has joined Republicans in at last recognizing the need—the critical need—to balance the Federal budget.

But while the President's new position is a dramatic policy reversal from his previously stated view, and his new budget proposal is an improvement over his last one which did nothing to reign in the growth of government, the President's budget does not go nearly far enough.

Mr. President, the President's logic that slowing the path of deficit reduction would ease the pain on the elderly, on students, on the disabled, and the economy just does not hold up. In fact, the reverse is true. Delaying balancing the budget is more costly in the long run, as we run up more and more debt and higher and higher interest payments. And according to CBO, expected reductions in interest rates that would result under the Republican balanced budget plan are not certain to materialize under the President's plan. This means that under the President's plan, home mortgages, business loans, credit card interest, and virtually everything that is affected by interest rates in this country would be more expensive. And finally, delaying balance for 10 years runs the risk that we may never get there if we do not put our country on a strict diet of spending discipline beginning now.

President Clinton has recognized that there must be spending restraint on entitlement programs, such as Medicare and Medicaid, if we are to achieve balance, and I commend him for at least talking the talk of entitlement reform. But the President's specific proposals are troublesome. The Clinton June budget actually spends $1 billion more in nondefense discretionary spending than did his February budget. And it relies on overly optimistic estimates relating to economic growth and the cost of increases in Medicare and Medicaid. These rosy estimates, while appearing to be only slightly different from congressional estimates in the early years, are greatly magnified over a 10-year period. As a result, deficits will be much higher if analyzed using Congressional Budget Office figures.

According to the Congressional Budget Office—who Mr. Clinton once exalted and now deplores—Mr. Clinton's latest budget will fall far short of its goals, and like the last budget Mr. Clinton sent to Capitol Hill, will still leave the Nation in debt by as much as $234 billion by the year 2002.

It is clear to me what the President wants to do. He very much wants to balance the budget. He knows that balancing the budget is the right thing to do. But he really does not want to make the hard choices that must be made if we are going to truly put America back on the road to fiscal health.

The President's budget proposals relating to health care are indicative of the President's split-personality budget. He first takes a lower baseline for Medicare and Medicaid, which in plain terms means how much these programs are projected to cost over the next 10 years. This averts some pain by saying, ''It's really not as bad as we thought.'' Then the President's budget proposal reduces spending for Medicare—only by cutting payments to providers. In effect, the President is saying, ''Let's reduce spending for Medicare, but only if it doesn't hurt anyone.'' There are no proposed changes for payments to beneficiaries or real reform of the system.

Mr. President, this approach does not make any sense in 1995. We must reform Medicare to save Medicare, to improve it, to preserve it. We have to change the program so that it is preserved for generations to come. We will never ensure long-term solvency of the Medicare program by just continuing

to cut payments to health care providers. Republicans have instead proposed restructuring the Medicare program to save it and improve it. The Republican plan would expand choice, for our seniors and our disabled, and would increase market efficiencies and reduce waste. The President's plan, on the other hand, would only postpone bankruptcy of the Medicare program until 2005.

Mr. President, while I admire the President's goals, I believe that the President's latest budget submission is yet one more case of failing to adequately address the crisis at hand and choosing instead to respond to critics by producing a budget designed for domestic political consumption rather than the welfare of the American people.

I hope the President will work with the Republicans. We, on our side of the aisle, have made some tough choices, and there are more to come. But I know the American people are with us, and they will put the interests of the country ahead of special interests. They voted for the fundamental change that Republicans have proposed and we must honor our commitment to the Americans who sent us to Washington last November.

I thank the Chair and yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend our distinguished colleague. We are indeed fortunate, not only here in the Senate but the United States, to have one who made this important career change having dedicated his life to saving lives in his career. Now, he brings to the institution of the Senate enormous knowledge, not only personal but that gained from working with his colleagues in the medical profession for these many years, such that we can have the benefit of his wisdom and experience as we address the critical issues relating to health care. I express my appreciation to the Senator for these remarks this morning. They are very timely.

TRIBUTE TO GEORGE STAFFORD

Mr. DOLE. Mr. President, one of the most remarkable public servants in Kansas history was Frank Carlson, who served in this Chamber for 18 years.

During his career, Senator Carlson also served for 4 years as a member of the Kansas House of Representatives, 12 years in the U.S. House of Representatives, and 4 years as Governor.

Senator Carlson did many great things in his career, including helping to draft Dwight Eisenhower for President in 1952.

But I am here this morning to talk about another great thing that Frank Carlson did. And that is the fact that he brought George Stafford to Washington, DC.

George passed away last week, and I wanted to take a minute to remember this outstanding Kansan and outstanding American.

George was executive secretary to Frank Carlson during his term as Governor, and followed him to Washington as his Senate administrative assistant.

He served in that role for 17 years with great intelligence and integrity, always reaching out to provide advice and support to young Kansans who were new in town.

In 1967, then-President Johnson appointed George to serve on the Interstate Commerce Commission. He remained on the commission until 1980, serving as its chairman for 7 years.

George's years in Topeka and Washington are not the only examples of the service he gave to his country. He also defended freedom in World War II, rising to the rank of Captain, and receiving both the bronze star and the purple heart.

Like many in Kansas and in Washington, I was proud to call George Stafford my friend.

I know that Senator KASSEBAUM joins with me in extending our sympathies to Lena Stafford, George's wife of 48 years; his children; Bill, Susan, and Quincy; and his five grandchildren.

RETIREMENT OF GEN. GORDON SULLIVAN

Mr. DOLE. Mr. President, I rise today to commend a truly remarkable individual, Gen. Gordon R. Sullivan, on his retirement after 36 years of service to our Army and to our Nation.

I had the distinct honor of working closely with General Sullivan over the years when he served as the deputy of the Command and Staff College at Fort Leavenworth, KS and during his command of the Big Red One at Fort Riley, KS.

Indeed, it was my pleasure to introduce General Sullivan before the Senate Armed Services Committee during his confirmation as chief of staff of the Army just 4 years ago.

In my view, Gordon Sullivan was exactly the right man at the right time to lead our Army during one of the most difficult periods of restructuring and downsizing. He kept the right perspective, and put it best in his own words, ''smaller is not better, better is better.''

Throughout his 4 years as Army Chief of Staff, General Sullivan kept his focus and vision. His priorities were our soldiers whom he prepared to fight and win our Nation's wars. And their families who support our solders and willingly sacrifice for their purpose.

I frequently conferred with General Sullivan throughout this term as Army Chief. His views and counsel were always on the mark. Gordon Sullivan brought tremendous wisdom to the job and a style of leadership which reflected his greatness.

Our Army will sorely miss General Sullivan, but it is stronger and better for his service. The legacy he leaves, a ready Army, a future force that will be unmatched, and the deep love and devotion of his solders is fitting of this great man.

I ask my colleagues to join me in commending Gen. Gordon R. Sullivan for his sacrifice, his leadership, and his commitment to our solders and to our Nation.

God's speed and blessings to him and to his wife Gay, and their family.

TRIBUTE TO CLAIRE STERLING

Mr. MOYNIHAN. Mr. President, on Saturday last, in Arezzo, Italy, Claire Sterling died, age 76. So passed, as her great friend Meg Greenfield put it, ''one of the great journalists of all time.''

She was born in Queens, took her degree from Brooklyn College, and went from there to the Columbia graduate school of journalism. In time she joined the staff of the Reporter where she was a colleague of Ms. Greenfield for some 17 years, albeit from her post in Rome.

In her youth, as a student involved with student politics at Brooklyn College, and later as a union organizer, she came in contact with the Stalinist left which gave her a perspective, almost a second sense concerning ideological politics that ever thereafter informed her accounts of world politics at the highest, and yes, lowest, even criminal and clandestine levels. What liberals did not wish to know—many liberals, that is—and conservatives could not grasp, she instantly understood, and sublimely construed. There is a Hebrew saying, ha mevin yavin: those who understand, understand. Claire Sterling understood and not just at metaphysical heights. Who else would have persuaded the rebels opposing French rule in Algeria to let her know which trains she could take back to the coast which were not scheduled to be blown up.

Meg Greenfield allows as how ''it is hard to think of her as dead, for she was so alive.'' And so we will remember her, even as we offer our condolences to her beloved husband Tom, and her son Luke, daughter Abigail, and her sister Ethel.

Mr. President, I ask unanimous consent that the full text of the articles from the New York Times and the Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 18, 1995]

CLAIRE STERLING, 76, DIES; WRITER ON CRIME AND TERROR

(By Eric Pace)

Claire Sterling, an American author and correspondent based in Italy, who was known for her writings on terrorism, assassination and crime, died yesterday in a hospital in Arezzo, Italy. She was 76 and lived outside of Cortona, near Arezzo.

She had cancer of the colon, her husband said.

Mrs. Sterling was based in Italy for more than 30 years and traveled widely. Her most

recent book, ''Thieves' World: The Threat of the New Global Network of Organized Crime'' (1994, Simon & Schuster), was praised by Stephen Handelman, of the Harriman Institute of Advanced Soviet Studies at Columbia University, as making ''a significant contribution to post-cold-war debate'' by affirming ''that the growing interdependence among nation-states and financial institutions has made it easier for crime syndicates to cooperate across national boundaries.''

In an earlier book, ''Octopus: the Long Reach of the International Sicilian Mafia'' (1990), she examined the Sicilian Mafia and charged gangster-chieftains based in Palermo with creating a multinational empire with the United States as its longtime main target.

In her 1984 book ''The Time of the Assassins,'' Mrs. Sterling examined the attempt by a Turk, Mehmet Ali Agca, to kill Pope John Paul II in 1981. She contended that Mr. Agca had ''come to Rome as a professional hit man, hired by a Bulgarian spy ring.'' She presented what she called ''massive proof that the Soviet Union and its surrogates have provided the weapons, training and sanctuary for a worldwide terror network aimed at the destabilization of Western democratic society.''

Mrs. Sterling's contention about a Bulgarian role in the attack was disputed, but writing in 1991, she maintained that Italian courts in 1988 had ''expressed their moral certainty that Bulgaria's secret service was behind the papal shooting.''

She also attracted wide attention with her 1981 book ''The Terror Network,'' which traced connections among terrorist groups around the globe. William Abrahams, who edited the book for Holt, Rinehart & Winston, said that while she was writing it, the Italian Government posted a guard at her house to protect her.

A decade later, the New York Times columnist Anthony Lewis reported that William J. Casey, the Director of Central Intelligence in the Reagan Administration, had held up a copy of ''The Terror Network'' before a group of official intelligence experts and had ''said contemptuously that he had learned more from it than from all of them.''

Mrs. Sterling's first book was ''The Masaryk Case'' (1969), about Jan Masaryk, the Czechoslovak Foreign Minister who was reported to have leaped to his death in 1948 from a window of his Prague apartment. She concluded that he had been killed by Soviet or Czechoslovak Stalinists to keep him from defecting to the West.

In her decades abroad, she also wrote articles for The New York Times, Atlantic Monthly, The Reporter magazine, Life, Reader's Digest, Harper's, The New Republic, The Washington Post, International Herald Tribune and The Financial Times.

Mrs. Sterling was born Claire Neikind in Queens, received a bachelor's degree in economics from Brooklyn College, and worked for a time as a union organizer among electrical workers.

In 1945 she received a master's degree from the Columbia Graduate School of Journalism, which awarded her a Pulitzer Traveling Scholarship.

She went on to work in Rome for what she described in a 1981 interview as ''a fly-by-night American news agency.'' She learned Italian, and when the agency went out of business, she returned to the United States and joined the staff of The Reporter magazine, which began publication in early 1949.

Mrs. Sterling recalled that when she applied for the Reporter job, Max Ascoli, the magazine's Italian-born publisher and editor, said, ''If anybody's going to write about Italy around here, it's me.''

In 1951, she married Tom Sterling, a writer. She remembered that ''Max Ascoli's wedding present to me was a six-month assignment in Rome.''

Mrs. Sterling's six-month assignment lasted 17 years, ending only when The Reporter ceased publication in 1968. By then, the Sterlings were accustomed to life in Italy, where Mr. Sterling had written some of his more than a dozen books. So Mrs. Sterling, keeping Italy as her base, began writing her Masaryk book.

She is survived by her husband; a son, Luke, of Cortona; a daughter, Abigail Vazquez of San Francisco; two grandchildren, and a sister, Ethel Braun of Manhattan.

[From the Washington Post, June 18, 1995]

CLAIRE STERLING, INVESTIGATIVE WRITER, DIES

(By Bart Barnes)

Claire Sterling, 75, a U.S. journalist and author of investigative books that explored connections between the Soviet government and terrorist organizations around the world, died of cancer June 17 at a hospital in Arezzo, Italy.

In a journalistic career that spanned almost five decades, Mrs. Sterling covered and wrote about armed revolutionary movements in Third World countries, U.S. gangsters, World War II refugees and political assassinations. She was based in Italy for most of that period, and from there she wrote stories for The Washington Post and other newspapers. But her work also took her to Eastern Europe, Africa, the Middle East and Asia.

Her books included ''The Masaryk Case'' (1969), In which she argued that the 1948 death of Czech Foreign Minister Jan Masaryk was murder, not suicide; ''The Terror Network'' (1981), in which she argued that the Soviets were sponsoring and supporting terrorist organizations in several countries; and ''The Time of the Assassins'' (1984), in which she accused the Soviet Union of complicity in the 1981 attempted assassination of Pope John Paul II.

She began her career in journalism shortly after World War II, working in Italy for the now-defunct Overseas News Service. It was an era when women were rare and often unwelcome in the news business, and Mrs. Sterling became known as an adventuresome and energetic reporter who sometimes used creative methods to get her stories.

In Italy, she boarded a Palestine-bound ship with Jewish war refugees, taping her U.S. passport to her arm, which she had encased in a cast as if it were broken. The ship was intercepted by British authorities, and she was taken to an internment camp. But she was released when she produced the passport proving her U.S. nationality.

During the 1950s, she wrote about independence movements in North Africa, and she often traveled with bands of armed insurgents, including once when she was five months pregnant. When her husband expressed concern about this, she told him not to worry—the rebels had promised not to blow up any trains she was on.

Mrs. Sterling was born in New York. She graduated from Brooklyn College and received a degree in journalism from Columbia University.

After a short stint with the Overseas News Service, she joined the staff of Reporter magazine in 1949. She interviewed New York mob boss Lucky Luciano and wrote an unflattering profile of Clare Booth Luce, the U.S. ambassador to Italy during the Eisenhower administration. She wrote stories from sub-Saharan Africa, the Middle East and Asia.

After Reporter folded in 1968, Mrs. Sterling wrote articles for Harper's magazine, did freelance writing and wrote books.

In 1968, she covered the brief period of social and political liberalization in Czechoslovakia under the leadership of Alexander Dubcek, which became known as the Prague Spring. In the course of reporting that story, she began looking into the 1948 death of Masaryk, the foreign minister, who had been found dead in the courtyard of Prague's Czernin Palace, apparently after falling from a window. The death had been ruled a suicide.

From previously published material, interviews and new documents, Mrs. Sterling concluded that Masaryk, a popular political figure and a leader of the Czech government in exile during the wartime occupation by Germany, had been murdered by Communist agents, probably to prevent his defection to the West. She speculated in her book ''The Masaryk Case'' that he had been overpowered by security agents, suffocated with pillows and flung from the window.

Her second book, ''The Terror Network,'' was based on an article she had written for Atlantic Monthly in which she explored similarities between the kidnappings and murders in the 1970s of former Italian premier Aldo Moro by the Italian Red Brigades and of West German industrialist Hans-Martin Schleyer by the German Red Army Faction.

In this book, Mrs. Sterling traced what she said were extensive political and military links between terrorist organizations, all of which, she suggested, received material but clandestine support from Moscow. ''In effect,'' she wrote, ''the Soviet Union simply laid a loaded gun on the table, leaving the others to get on with it.'' The book was well received by the newly inaugurated administration of Ronald Reagan, but liberal critics complained that Mrs. Sterling's argument was unsupported by conclusive evidence.

In ''The Time of the Assassins,'' Mrs. Sterling investigated claims by Mehmet Al Agca that he was acting on orders from the Bulgarian secret service in his 1981 attempt on the life of Pope John Paul II. In 1986, an Italian jury acquitted three Bulgarians and three Turks of conspiracy in the plot for lack of proof. Mrs. Sterling continued to insist that the Soviet Union was behind it.

She married novelist Thomas Sterling in 1951. They lived in Rome and Cortona, Italy.

In addition to her husband, she is survived by two children, Luke Sterling, a painter who lives in Cortona, and Abigail Vazquez of San Francisco; and two grandchildren.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, on that memorable evening in 1972 when I learned that I had been elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That's why I began making these daily reports to the Senate on February 22, 1992. I wanted to make it a matter of daily record precisely the size of the Federal debt which as of yesterday, Wednesday, June 21, stood at $4,898,068,854,045.71 or $18,593.15 for every man, woman, and child in America.

THE RECALL OF THE CHINESE AMBASSADOR

Mr. PELL. Mr. President, I learned with regret last week that the People's Republic of China has recalled its ambassador to the United States, Li Daoyu, because of the visit of Taiwan President Lee Teng-hui. I am disappointed that the Chinese government has chosen this step as a form of protest over Lee's visit.

President Lee came to the United States on a private visit after he was invited to speak at his alma mater. He was granted a visa as a simple act of courtesy and his trip does not represent a change in our government's one-China policy. The United States believes strongly that notable speakers from around the world should be free to travel here to speak their views. I feel that Beijing's reaction to Lee's visit is both excessive and unproductive. Lee's visit was a small matter and should be seen as insignificant for overall Sino-United States relations.

There is a great reservoir of friendship between the peoples of China and the United States. I think of that friendship as an iceberg. Right now we may see problems at the tip, but underneath is a large, enduring solidness. I feel certain that sturdy base will help us outlast minor irritants to the relationship, such as this one. It is my deep wish that Beijing would simply agree to disagree with Washington on this matter, return Ambassador Li to his post quickly, and move on to the truly important matters we have between the two countries.

AMERICAN CENTER PLZEN

Mr. PELL. On May 6, 1995, I was honored to be part of the delegation headed by Ambassador Madeleine Albright and accompanied by Gen. Charles G. Boyd, commander in chief, U.S. European Command, to represent President Clinton at ceremonies marking the 50th anniversary of the liberation of Plzen in the Czech Republic.

Having served as a foreign service officer in Prague in 1946 after World War II, it was a particular personal honor to be present at such a warm outpouring of appreciation and gratitude shown by the people of the Czech Republic toward the gallant contributions made by the service men and women of Gen. George Patton's Third Army.

While in Plzen I was also honored to participate in the opening of American Center Plzen, with Prime Minister Klaus, the United States Ambassador to the Czech Republic, Adrian Basora, Ambassador Albright, and General Boyd. The creation of the American Center in Plzen was the personal accomplishment of a U.S. Peace Corps volunteer from Barrington, RI, John R. Hess.

The Center is a tribute to the enthusiasm and commitment of John Hess and the citizens of Plzen. Significantly, it was completed without having to commit any U.S. tax dollars. I asked Mr. Hess if he would send me a report on the creation of American Center Plzen, so that his work could serve as an example to others reaching out to our neighbors around the world. I ask unanimous consent that his report on American Center Plzen be printed in the RECORD.

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

REPORT ON AMERICAN CENTER PLZEN

This is a report requested by U.S. Senator Claiborne Pell about my activities as a U.S. Peace Corps Volunteer in establishing American Center Plzen without use of American taxpayers money. Senator Pell was in Plzen at the time of the Center's opening.

The idea of having an American Center for American-Czech business and cultural exchange in Plzen began with then Deputy Mayor of Plzen, Zdenek Prosek when in 1993 he discussed the thought with the U.S. Ambassador, Foreign Commercial Service, USIS, and representatives of the Czech American Enterprise Fund (CAEF). All thought well of the concept. CAEF liked the plan because there would be business investment opportunities for them and the others because it could help to create U.S. and Czech business growth as well as expand U.S. and Czech cultural understanding. The purpose of the Center would offer something to both the United States and to Plzen. A Center would make it easier for U.S. businesses to establish themselves in Western Bohemia as investors and for export possibilities. It would also enhance and build upon the warm feelings held by the West Bohemian people toward the U.S. resulting from General Patton's liberation of this area in 1945. Plzen would benefit as the Center will open access to U.S. business for joint ventures and could obtain the balanced economy sought by city leaders. CAEF offered to donate the equivalent of $35,000.00 as ''seed money'' for the project to cover any first year operating deficits. The United States Embassy clearly stated that no U.S. funds were available for the purpose of establishing the Center. Advisory assistance would be offered.

The city of Plzen made it known that it would bear all costs. Deputy Mayor Prosek (now Lord Mayor) told the Embassy and CAEF that the City would donate a historic building in the city center and would restore it at Plzen's expense. Plzen certainly did that spending the equivalent of $1,250,000 on the renovation as well as donating the building. Mayor Prosek also stated that a Foundation would be created with a Czech Director to operate the Center under Czech law and would be self supporting. It was agreed among the parties that a Peace Corps Business Volunteer as a catalyst to ensure that the project would be designed and implemented in a manner to assure success would be assigned to Plzen.

As that volunteer I discussed with project planners and architects hired by the city the layout of the building to meet the purpose of the project. It was agreed among the project designers, the architects, and myself that the building must be competitive for well into the 21st Century and must meet western standards. The building would have a social center, a meeting room for seminars, permanent offices, temporary offices for companies seeking partners, an information area, and a place for cultural displays. The building has over 100 communication outlets for phones, faxes, and computers. It is centrally air conditioned and handicap accessible. In addition, all offices have raised floors for ease of cabling. Ability to communicate was a major thrust and attention to computer, fax, and telephone access was a priority of the building infrastructure. The City also wanted the building completed in time for the 50 year Liberation Ceremony to take place in May 1995.

A working committee consisting of ten people was formed and met regularly to review plans. The committee assisted in hiring the Director for the Center as well as talking with the U.S. and Czech business communities about the Center. The makeup of the committee included five Czechs and five Americans. Four Czechs were from Plzen and one Czech and three Americans were from Prague.

Plans for the building were completed in June 1994 and were approved by the City. Building restoration began in September 1994 and was completed in late April 1995. The City paid all the expenses for the building. No U.S. taxpayer money was a part of the building renovations. The building is expected to be self sufficient financially by January 1997 through rental charges for offices, meetings, special services, etc.

The Foundation has been established and has two Boards, one advisory which includes American Chamber of Commerce in the Czech Republic, Peace Corps, an American Embassy person, and Chamber of Commerce Plzen. The voting Board is chaired by a Czech who is also Chair of the Business Innovation Center in Plzen. There are four Czechs and one American on the voting Board.

A few American and Czech companies have made donations of operating equipment such as fax machines and computers to the Center which are greatly appreciated.

A Peace Corps Business Volunteer will continue as an advisor to the Center until late January 1996. Peace Corps does not plan to assign another volunteer to this project after that date.

CONCLUSION OF MORNING BUSINESS

Mr. WARNER. Mr. President, am I correct that the Senate now turns to S. 440?

The PRESIDING OFFICER. Morning business is closed.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 440, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WARNER. Mr. President, I see in the Chamber joining me the distinguished Senator from Rhode Island, the

chairman of the committee, and I anticipate the arrival very shortly of the distinguished Senator from Montana, the comanager of the bill.

Mr. President, at the conclusion of the session last night, the Senate gave unanimous consent to a list of amendments. They are printed in today's RECORD, and the managers are very anxious to work with Members to resolve these amendments. I think several of them can be accepted. At this time, I cannot predict whether or not there will be further rollcall votes other than final passage associated with this bill.

The leadership is quite anxious to finish this bill today, and I indicate to all Members a willingness to deal with these amendments, and I am hopeful that Members will shortly come to the floor to work with us.

Mr. CHAFEE. Mr. President, I wish to echo what the distinguished Senator from Virginia has said. We are here to do business. The shop is open. If people have amendments, bring them on over. We are working on several now to resolve them. But others who have problems, now is the time.

The schedule is such that between now and 11:30 there is time for discussion and debate. There will be no votes before 11:30. At 11:30, we have a chance to vote. I would like to see us move to final passage and vote then. But if not, at 12 o'clock, we go back on the cloture motion. And the vote on that, as I understand, is at 2 o'clock. At the conclusion of that vote, if we have not finished this bill, we will be back on it again. But I know the leadership is very anxious to get this over with because there is a host of other measures with which they want to deal.

So I say to all within listening and viewing distance, come over, bring your amendments and let us dispose of them.

Mr. WARNER. Mr. President, for the ready reference of Senators, the list of amendments adopted by unanimous consent last night appears on page 2 of today's Calendar of Business.

Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for a period of not more than 10 minutes.

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

HELP FOR THE FARMERS

Mr. FRIST. Mr. President, during the most recent recess, I had the privilege of meeting with 36 farmers, who make up an agriculture advisory board from across the State of Tennessee. We actually met in Knoxville, TN. The women and men on that board are real farmers, not just representatives of farmers, but people who personally earn their living on a farm.

One gentleman, exhausted from the dawn-to-dusk pace of a farm in early summer, told my staff quite candidly that he simply would not have time to meet with a Senator unless it turned out to be a rainy day. That kind of humble feedback is in itself an important reason for us in the U.S. Senate, as elected representatives, to go home and talk to real people. Some members of this agriculture board from the western part of my State could not join me at that meeting because that very day they were struggling with the floodwaters that were destroying and threatening to destroy their crops. Nothing—nothing—could have served to make the need for Federal disaster relief more concrete and more real for me than the voice of a good man on the phone near panic over the rising waters.

It was a fascinating day. When I had asked these 30 farmers to tell me what they would like their duly elected Senator to know today about agriculture, they were forthright and firm in their advice and their counsel. On two points they were very clear. Sam Worley of Hampshire, TN, said:

> We want a smaller Federal Government that thinks not short term but long term.

He went on and expressed that they wanted to be treated fairly in the spending reductions that they expect and that they know are necessary for the long-term health of this country for that next generation.

These hard-working Tennesseans resent the media portraying them as parasites. They are willing to sacrifice, each and every one, as long as all Americans do, to balance the budget. They shuddered when I shared with them the fact that a child born today acquires an $18,000 share in the Federal debt—a share of the Federal debt that they will be expected to pay the interest on over the course of a lifetime. They made it very clear to me that they are ready to do their part, as long as we do not try to balance the budget on the backs of the farmers.

What else did these men and women have to tell me? They are frustrated with the perverse incentives of our welfare system. Mike Vaught of Lacassas, TN, told me of being unable to find an overseer to live on his farm because he could not provide the cable TV that was available in the public housing just miles away. They are frustrated with the intrusive Federal agencies that often act at cross purposes with each other. The Environmental Protection Agency orders action that the Soil Conservation Service prohibits. Jimmy Shellabarger of Jackson, TN, told me that he is frustrated by the huge fines for minor infractions of complicated rules. David Robinson of Jonesboro said,

> We are tired of being held to expensive standards of production when our global competitors are allowed to ignore these same standards.

These farmers also asked for tax relief. This may surprise some of my colleagues across the aisle, but the tax relief that they asked me for, that they spoke about, was a cut in the capital gains tax rate. These are mainly middle-class Tennesseans. Some have experienced or been very close to bankruptcy, riding the roller coaster of commodity prices. But they fully understand what seems to elude so many of my colleagues, that a cut in the capital gains tax rate is critical to middle-income Americans; that it will stimulate the economy to the benefit of everyone in America.

In closing, I want to tell you what James Wooden of South Pittsburg, TN, said. He said, ''I am going to talk to you just like we do under the shade tree.'' I will remember those words of James Wooden when the 700-page farm bill, full of Washington lingo, comes by my way. We all need to go out under the shade tree and listen to the people across this country and let the people, firsthand, tell us what they know.

Mr. President, I yield the floor and suggest the absence of a quorum.

Mr. DOLE. Will the Senator withhold?

The PRESIDING OFFICER. The Chair recognizes the majority leader.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, first I want to remind my colleagues the two managers are here on the highway bill and have been here since 9:30 and would very much like to complete action on this bill by noon today because at noon we have 2 hours of debate on the Foster nomination and then another vote. And then hopefully after that we would go to securities litigation legislation.

I have just talked with Virginia Senator, Senator WARNER. Maybe many of these amendments will never be called up, but it will be helpful if our colleagues on either side will let the managers know. If we are not going to call up the amendments or if you have an amendment, it would certainly be better to offer it at 10:30 in the morning rather than 10:30 tonight. The reason we are here every night until 10 o'clock, 11 o'clock, is because people will not cooperate during the daytime. They are the same ones who complain in the evening after 7 or 8 o'clock. So I would tell my colleagues, if you have an amendment, the managers are here.

Mr. WARNER. Mr. President, if I might say to the distinguished leader, half of these amendments are not matters related to the bill. They are not matters either the Senator from Montana nor I can really settle out because

other chairmen and ranking members of other committees are involved in the subject of the amendments.

It seems to me it takes a good deal of work to get these things done by persons other than the managers of the pending bill.

Mr. DOLE. I note the presence of the distinguished chairman of the committee, Senator CHAFEE. There are a number of amendments under the jurisdiction of the Commerce Committee, Energy Committee, whatever. As the Senator from Virginia has pointed out, they are not under the jurisdiction of the committee that has the bill on the floor.

In any event, I know many of my colleagues may have conflicts at this moment because there are amendments here by Senator BOXER, three by Senator EXON, one by Senator FORD, Senator HATFIELD, Senator KERRY, Senator LAUTENBERG, Senator NICKLES, Senator MCCAIN, Senator SARBANES, Senator SMITH, Senator STEVENS, and Senator MURKOWSKI. We would hope whoever is willing to come to the floor would do so. If they do not intend to offer their amendments, if they would notify the managers on either side then we can move on because we do have a lot of legislation we will finish before the July 4 recess begins. It is up to our colleagues when that may happen.

Mr. WARNER. Mr. President, I might inform the leader Senator HATFIELD has just withdrawn his amendment.

Mr. DOLE. We are making progress.

Mr. WARNER. Now we are making progress.

Mr. DOLE. Now can we have a bit from the other side?

Mr. BAUCUS. I might say to the leader, in response to his question, that means automatically one or two others are dropped. Automatically, too, that means others are dropped.

Mr. DOLE. I think that means Senator MCCAIN's amendment will disappear.

Mr. BAUCUS. Also another one on this side, too, will not be offered as a consequence of that last development.

Mr. DOLE. We are making progress as we speak.

Mr. BAUCUS. Maybe the Senator could find another one that has the same ripple effect?

Mr. DOLE. Could I ask, will there be any of these other amendments requiring rollcall votes?

Mr. WARNER. Mr. President, I say to the distinguished leader and others, at this present time the managers of the bill do not know of a request for a rollcall vote other than final passage.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I agree with the analysis of the distinguished Senator from Virginia. We are making some progress.

We would appreciate your sticking around a little longer, though. We have just disposed of three in 30 seconds. It is like a house of cards. If we pull one card out, perhaps the whole thing will come collapsing down and we will finish. In any event, we are striving. We will call on these individual Senators to see if they are satisfied.

I think the point the managers make here is a very valid one. These amendments, many of them, do not involve this committee. They involve other committees. And we are caught in a crossfire here. The Commerce Committee or the Energy Committee—they have nothing to do with us. I do not even know why they are on this bill.

Mr. WARNER. Mr. President, there are a number of them relating to the Banking Committee. As such, I know Senator D'AMATO has been trying to be very helpful on it. Other committee chairmen are working together with their ranking members. It is most unusual.

Mr. DOLE. Perhaps—perhaps we can, if our colleagues do not object, then we can go to third reading, say at 11:30? That would be one way too expedite the process. We have indicated to one of our colleagues, the eldest, there may not be any votes until 11:30. But that does not mean we should not proceed. I think we are making progress and I want to congratulate the managers. I do believe I can see some of these may be tied together. Some may not have any—some may be more related to the next bill than this bill, as I understand it. Some that do not want the other bill to come up.

In the meantime, while we are waiting for our colleagues to come, I know there must be a rush on the subway as I speak. They are all heading for the floor at the same time.

Mr. President, while we are waiting additional action on this bill, 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. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WARNER. The managers wish to thank Senators. We are making considerable progress. I would like to make a report, together with my distinguished colleague.

On the horizon is the opportunity perhaps to vote final passage at about 11:30, or at such time thereafter, or before 12, as the leadership of the Senate may designate.

But to bring Senators up to date, referring to page 2 of today's calendar, the amendments pending from last night by the Senator from California, Mrs. BOXER, are withdrawn; Senator CHAFEE withdrawn; Senator FORD, we have reason to believe that is going to be withdrawn; Senator HATFIELD, withdrawn; Senator KERRY, we have reason to believe that will be withdrawn; Senator LAUTENBERG has resolved his amendment. We have reason to believe Senator NICKLES' amendment will be withdrawn. Senator MCCAIN has been resolved.

That leaves Senator SARBANES, and Senator SMITH is very close to reconciliation. Senator CHAFEE is working on that with Senator SMITH. There still remains an amendment by Senators STEVENS and MURKOWSKI, the Senators from Alaska, but we are hopeful that that matter can be resolved. It relates to the Committee on Energy, of which Senator MURKOWSKI is the chairman. We hope that can be resolved. Neither of the managers of the pending bill have any dealings with that.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to join in commending Senators who have worked out resolutions of amendments. The Senator from Virginia has done an admirable job, a wonderful job talking with Senators and working out resolutions.

On the Democratic side, we are about finished. Senator EXON has three amendments. I hope, because those are Commerce Committee amendments, that the chairman of the Commerce Committee and his staff can work out agreements with Senator EXON. Senator EXON is on the floor now ready to proceed with his amendments. I hope that those can be worked out. We are very close to final passage. Very close. I expect we can finish this bill before noon.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. I thank the Chair, and I thank the managers of the bill. While the dialog was just briefly going on between the two managers, I have received information we have clearance for the second Exon amendment now on both sides of the aisle. I will take those in order.

Mr. WARNER. Mr. President, the Senator from Nebraska is correct. On the second amendment, clearance has been arranged.

AMENDMENT NO. 1462

(Purpose: To increase safety where the rails meet the roads)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1462.

Mr. EXON. 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:

At the appropriate place in the bill insert the following:

SEC. . SHORT TITLE.

This amendment may be cited as the ''Federal Highway and Railroad Grade Crossing Safety Act of 1995''.

SEC.—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway System Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC.—STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating highrisk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) DEADLINE.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. . VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) GRADE-CROSSING VIOLATIONS.—

''(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

''(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

''(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

''(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.''.

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(18) GRADE-CROSSING REGULATIONS.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.''.

SEC. . SAFETY ENFORCEMENT.

(a) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) REPORT.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. . CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) STATEMENT OF POLICY.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) PARTNERSHIP AND OVERSIGHT.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provision for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) CROSSING FREEZE.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

Mr. EXON. Mr. President, I appreciate the cooperation of the two managers. I have been trying to work with them to move this expeditiously ahead. I think we have made some great progress overnight. At least two of the amendments that were in question have now been resolved.

The first amendment that I have just offered is the Federal highway-railroad grade-crossing safety amendment. This legislation builds on the important work already done by the U.S. Senate. The provisions in this amendment should be familiar and are familiar to the Senate, and it is noncontroversial.

Mr. President, I am pleased to offer the Federal highway and railroad grade crossing safety amendment. This legislation builds on important work already done by the U.S. Senate. The provisions in this amendment should be familiar to the Senate and noncontroversial.

Most deaths and injuries which occur in the rail industry are as a result of trespassers and motorist violation of railroad grade crossing laws. About 600 people a year die as a result of railroad crossing accidents and about 600 people a year die as a result of trespassing on railroad property. An automobile and a train collide once about every 90 minutes in the United States. In 1992 approximately 2,500 people were either killed or seriously injured as a result of railroad grade crossing accidents.

This is one area of death and injury which is almost entirely preventable. The amendment I offer is meant to complement landmark rail safety legislation approved last year as part of the so-called Swift Rail Act, named in honor of former House Chairman Al Swift.

As the former chairman of the Senate Surface Transportation Subcommittee, I chaired a number of hearings on railroad and grade crossing safety. Those hearings indicated that although significant progress has been made in reducing the number of rail related deaths, there is still room for improvement, especially when it comes to grade crossing safety. Unfortunately, in the past, jurisdictional disputes with the House of Representatives got in the way of a number of important Senate grade crossing safety initiatives. Now that the House of Representatives has reorganized, I am hopeful that good ideas will not be slain by the sword of jurisdiction.

States and local governments must be encouraged to enforce their laws against grade crossing violations and must be encouraged to finally close crossings. The split jurisdiction between the Federal Highway Administration, The Federal Rail Administration, States, local governments, and railroads has led to a gridlock of responsibility. This amendment helps shatter that gridlock.

It is time to make the places where rails meet roads safer for rail workers, drivers, and pedestrians.

This amendment should be very familiar to the Senate. Its provisions are

taken from legislation unanimously approved by the Senate last year.

Provisions taken from the railroad safety bill unanimously approved by the Senate in 1994 consist of provisions dropped from the final Swift Rail Act because they were outside the jurisdiction of the House Energy and Commerce Committee.

These provisions require that grade crossing safety be made part of at least two intelligent vehicle highway systems projects; ensure that States include grade crossing closure and safety enhancement plans in their highway safety management plans; stiffen penalties for truck violations of grade crossing safety laws and encourage cooperation between State and Federal authorities on grade crossing safety.

Finally, the amendment gives the Secretary power—but only as a last resort—to impose a statewide freeze on grade crossings where a State has failed to make substantial, continued progress toward crossing reduction and improvement.

Mr. President, with the amendment, the Senate can vote to save lives. Again, this amendment should be noncontroversial and simply represents unfinished business from last year.

I say to the managers of the bill that we have agreed to strike the two provisions that your committee had objection to, and we are going simply with the proposition that was originally cleared by the Commerce Committee.

Mr. WARNER. Mr. President, we accept the amendment.

Mr. BAUCUS. Mr. President, before accepting the amendment, I would like to commend the Senator from Nebraska. About 600 people a year die at railroad crossings. It seems to me we in Congress have an obligation to do what we can do to reduce that number.

The Senator from Nebraska came up with an ingenious idea to reduce the deaths. All the Members are indebted to him for his efforts. I commend the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1463

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1463.

Mr. EXON. 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:

At the appropriate place in the bill add the following:

SEC. . TRUCK LENGTH AND THE NORTH AMERICAN FREE TRADE AGREEMENT.

Any Federal regulatory standard for single trailer length issued pursuant to negotiations and procedures authorized under the North American Free Trade Agreement, shall not exceed fifty-three feet.

Mr. EXON. Mr. President, the Exon truck-length amendment is a very simple and straightforward provision. It only applies to Federal regulations on length issued pursuant to the North American Free-Trade Agreement.

Last year, I chaired a hearing on this issue. Pursuant to the NAFTA agreement, the governments of Mexico, Canada, and the United States of America are negotiating the harmonization of traffic safety laws. The Senate has been very concerned about these negotiations and following the approval of NAFTA approved a resolution expressing the sense of the Senate that these negotiations should bring Canadian and Mexican traffic safety up to United States levels, not to lower United States standards. I am pleased to report that the Clinton administration expressed their desire to involve Congress in the adoption of any new safety rules arising out of these negotiations.

Since the Federal Government maintains no single trailer length standard, there is a risk that a future administration could use the NAFTA negotiations to increase lengths beyond the generally accepted 53-foot standard. If the administration sets a single trailer length standard pursuant to NAFTA negotiations, that exceeds 53 feet, congressional action would be necessary to implement the longer Federal standard.

The amendment does not restrict State action.

The amendment does not affect Federal legislative action.

The amendment does not affect Federal regulatory action not related to the North American Free-Trade Agreement.

The amendment is consistent with the intent of the Reigle-Exon NAFTA-truck safety resolution approved by the Senate following the approval of NAFTA and in no way disrupts the long combination vehicle freeze Senator LAUTENBURG and I authored as part of ISTEA.

I ask my colleagues to adopt this narrow amendment which will preserve congressional discretion over truck safety and the NAFTA.

This does not affect truck lengths at all, as far as normal processes are concerned. What this amendment would do is to prevent the administration, through any real or imagined parts of the NAFTA agreement, to increase truck lengths unilaterally without any consideration at all by the Congress. I think this is a safety matter, but it is very narrowly drawn and has been cleared by, as far as I know, all participants who have an interest in this matter.

Mr. WARNER. Mr. President, indeed, we have endeavored to clear this amendment, but we have just been notified that a Senator has interposed an objection to the amendment. Perhaps given that objection, the Senator from Nebraska might wish to expand his explanation of this amendment in the hopes that that expanded explanation might meet the objections of the Senator who has interposed it.

Mr. EXON. I thank my friend. I will be glad to expand on it a little bit further and maybe satisfy the concerns of all in this particular area.

We have so many last-minute objections by so many people that I do not know who they are. It has been very difficult to kill these rats when they keep coming out of the hay bin.

I repeat again, we have had in the Commerce Committee and in the committee of jurisdiction on this particular piece of legislation various studies and indepth hearings all aimed at safety, safety on the highways of America. There is a discussion ongoing right now as to whether or not we should increase by law the length and the width of trucks traveling on our highways.

Generally speaking, this is a matter that has been split. The Commerce Committee has been generally recognized to have jurisdiction over truck lengths. The committee that is headed by the two distinguished managers of this bill have always had jurisdiction over the width. I cannot go into an explanation of why one committee has length and the other committee has width. That is too complicated a matter for me to understand, and I cannot explain it because I do not know the reason for it myself.

But we are not changing any of that, and we are not changing any lengths of trucks in this amendment. All that we are saying in this amendment—very clearly defined—is that the administration, under the authority granted the administration in the NAFTA agreement, cannot automatically extend the lengths of trucks over and beyond what is the law of the land at the present time.

There is some indication that in order to facilitate the movement and to make it easier for some of the Mexican trucks to enter the United States, the administration might have the authority, under the terms of NAFTA, to supersede the laws presently in place in the United States with regard to lengths of trucks.

All this narrowly defined amendment does is it writes into law and snatches away that part of the law that some might interpret as authority for the administration unilaterally, without any consultation with the Congress, let alone laws, unilaterally to authorize longer trucks on our highways under NAFTA that would otherwise be prohibited. That is a simple, straightforward explanation. With that, I do not know what the objection would be. If there is an objection, I would be glad to attempt to address it.

Mr. WARNER. An objection will be interposed, and we will discuss the objection with the Senator from Nebraska.

At this time, I ask unanimous consent that the pending amendment be temporarily laid aside, such that the managers can continue with other amendments.

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

Mr. WARNER. Mr. President, the managers are continuing to make steady progress. We retain our hope that we can vote on final passage before 12 noon. I urge those very few Senators—it is down to two or three Senators now that would require further reconciliation of their views.

Mr. President, on a personal matter, if I might make a few remarks. I commend the chairman of the Environment and Public Works Committee. Twenty-five years ago, I first met the then Governor of Rhode Island. In 1969, we formed a team in the Department of the Navy where he, as Secretary, and I, as principal deputy and Under Secretary, undertook a task at the height of the Vietnam war to give leadership to the Department of the Navy and to participate in other activities in the Department of Defense.

Now, 25 years later, we are still together. I do not say this with regret, but I do note that he is still the boss and I am still the first deputy, so not much has changed in a quarter of a century. There sits a man that has always stepped forward to lead in this country, be it in the time of war, as he did in World War II, as a marine fighting in the Pacific, and then being recalled back to duty during the Korean conflict, as a captain, company commander, and then as Governor. And now as a U.S. Senator, he has distinguished himself as a public servant. He is greatly respected in the U.S. Senate, as well as in his own State. It is a privilege for me to once again be in partnership, but as always, No. 2.

I thank the Chair.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Virginia for his generous remarks. He is right that in our long-time friendship we have worked together. It has not been a one-two relationship. It has been a partnership. He and I worked together in the Defense Department starting in January 1969 in the Navy, as Secretary and Under Secretary, and we were in those posts together for 3½ years.

The distinguished Senator from Virginia then became Secretary of the Navy and went on after that to head the bicentennial commission, was elected to the U.S. Senate in 1978, and he has served here with great distinction. So it is indeed a marvelous friendship and association that we have had together. And now on the Environment Committee, where he is handling this legislation so effectively, doing such an excellent job as chairman of the subcommittee dealing with this type of legislation.

So I thank my long-time friend—I will not say ''old'' friend, but ''long-time'' friend—for the joys that we have had together and the joint achievements that I believe we have accomplished.

Mr. WARNER. Mr. President, I thank my good friend and colleague. I hope we have many more years working together here in the U.S. Senate.

I note the presence on the floor of the Senator from Maine. I extend to him an apology. On two occasions I have indicated the clearance of the Senator's amendment. But subsequent thereto, objections arose. I believe it is now resolved, and I would appreciate if the Senator from Maine could advise the managers. The Senator from Virginia will continue to ascertain the status of the Senator's amendment. I am hopeful that it can be resolved. I thank the Senator from Maine, however, for his patience on this matter.

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

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

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

The Senator from Maine is recognized.

THE NOMINATION OF DR. HENRY FOSTER

Mr. COHEN. Mr. President, I would like to offer a few comments on the nomination of Dr. Foster to be Surgeon General. We are going to have further debate this afternoon. We are going to have one more rollcall vote in terms of whether or not the proceedings should come to a close and a vote take place on Dr. Foster.

I must say that this is one of those issues which has really galvanized the American people, those who are interested in this issue. We have letters and calls pouring into our offices from those who are strongly in favor, and those who are equally determined to oppose his nomination. The rhetoric is hot. It is, in fact, intemperate. I think the passion of the letters finds its voice right here in the U.S. Senate. That voice, at times, is angry, raw, and even ugly.

Mr. President, the charge has been made that we are sacrificing Dr. Foster on the altar of right-wing radicalism. I must say that there have been a number of good and decent people who have found their integrity and character shredded on the altar of left-wing liberalism. That is one of the problems that I see taking place in this Chamber and elsewhere. There seems to be a double standard on display, what we might call a case of situational ethics.

What comes to mind is the debate that took place when Ronald Reagan, for example, nominated Robert Bork to be a member of the Supreme Court. I recall that debate very well. Judge Bork's writings were plucked from the past. Those writings were provocative. He was, in fact, a provocative professor who challenged conventional wisdom. He disagreed with the rationale that was found and articulated in Roe versus Wade. He found no right of privacy lurking or hidden in the penumbra of the Constitution.

What took place with Bob Bork is that he was demonized. It was charged that he would take us back to the boneyard of conservatism, to the dark ages, maybe even to hell itself. I say that by virtue of a photograph that I remember that was on the cover of Time magazine.

It was a portrait, a photograph, of Robert Bork with his judicial robes on looking much like a cape. Of course, he had the beard. There was a red glow to the entire cover. And one could almost see the hint of horns emerging from the top of his head. One would have thought that Mephistopheles himself was about to be appointed to the Court, would corrupt the Court, would rip up the Constitution and shred our rights of privacy.

I might point out, sometime thereafter Judge Ruth Bader Ginsburg, who actually was endorsed by Robert Bork, also found fault with the Court's reasoning in Roe v. Wade. She said the Court had reached the right result but for the wrong reason. Yet we did not hear much criticism coming from the left, the liberal element in our society, at that time.

I mention that because I think we are reaching a point in the confirmation process in which it is going to be very difficult to have good and decent people willing to step forward and subject themselves to the confirmation process. My own friend, John Tower —I think what took place in this Chamber against John Tower was a disgrace. I saw a good man who had his character shredded by allegations and innuendo and false charges. He was so bloodied up that the critics said, ''He has been too damaged to be a successful Secretary of Defense. President Bush, why don't you just cut him down from that tree that he is swinging from and take him back to Texas?'' So we saw another challenge to an individual which I felt was unwarranted.

How many Republican nominees were rejected because of membership at all-white clubs? It did not matter that they were not racist. It did not matter that they had employed blacks or Hispanics or other minorities in their businesses or even in their homes. If they were members or had memberships in an all-white club, that was enough to bring down their nomination.

The same rule, however, was not applied when it came to people like Webster Hubbell, who also belonged to an

all-white club at that particular point. But we had a different standard imposed.

So I suggest we have to get away from this double standard that when those who raise questions about someone's nomination by virtue of their difference of philosophy, that we not charge it is based upon right-wing radicalism any more than it is based on left-wing radicalism. We have to put a stop to this situation. We have to remember that Bill Clinton won the election. He is the President of the United States. It is my own judgment he is entitled to the nominees of his choice.

We may disagree with those nominees, but every time we disagree with Bill Clinton's philosophy, President Clinton's philosophy, or that of the individuals he nominates, we should not then, by virtue of our disagreement with their ideology or practice, turn it into a character issue and then begin an all-out assault on character.

We obviously have a duty to challenge philosophy and policies when they are fundamentally in conflict with our own. But we also have to deal fairly with these individuals. We have to remember, also, the axiom that bad appointments make bad politics. The President of the United States, when he makes an appointment, is held accountable for that individual's record, that individual's character, that individual's performance. And, barring evidence of incompetence as far as technical qualifications are concerned, professional qualifications, barring clear and convincing evidence of moral deficiencies that would prevent that person from occupying that position, I think we have an obligation to confirm the President's nominees.

What we have to stop in this system is, really, shredding the character of the individuals who come before the body for confirmation. If we disagree philosophically, let us be very up front about it and base it on that. What I see taking place is something of a variation of what Senator MOYNIHAN of New York talked about in his brilliant piece a couple of years ago, called ''Defining Deviancy Down.'' What he was talking about at that time was events that took place in the 1920's or 1930's, some decades ago, that we would look at and say, ''What a horrible thing that was.'' The Saint Valentine's Day massacre was one he pointed to. There were, as I recall, seven people involved in that. Four were killed by three others, or vice versa. That incident made worldwide news. It has gone in the history books. Today, it is likely that might not appear in bold headlines in the Metro section of the New York Times or the Post or elsewhere.

We have seen so much violence spread in our society we have become inoculated against it, almost. We have been immunized against a sense of outrage about the level of deviancy because we defined it down.

It seems to me we have to also talk about defining civility down. We have, I think, lost some of our moorings. We now resort not only to challenges of philosophy but to challenges of character. In doing so, I think we have lowered the standard for civil debate and discourse in this country.

The anger we see outside of these Chambers is being reflected inside the Chambers. We do not want to tolerate or promote barbarism outside the gates. We do not want to promote it inside the gates. I think what we have to do is lower the rhetoric and the charges and the countercharges about who is sacrificing whom on which altar and stop imposing double standards and situational ethics and come back to what I believe to be the correct standard. Either we find Dr. Foster to be medically, professionally unqualified to serve in this position, or we find him to be so morally bankrupt that it would be a discredit and an injustice to have him serve in that position.

Frankly, I do not find that we have measured up to that burden of proof. I believe Dr. Foster is a good and decent man. I believe President Clinton is entitled to have his nominee confirmed, even though we might disagree or I might disagree with his particular views or practice. Nonetheless, that is not the test that should be imposed. The test should be, Is he professionally qualified and does he have a moral character to serve in that position?

There are those on this side who believe fundamentally he has misrepresented the number of abortions that he performed during the course of a long practice. That is, perhaps, a legitimate issue to be raised. But I do not think we ought to be engaged in savaging each other, in attacking each others' motives. This is a serious issue and is one that ought to be debated in that fashion without resorting to a lot of hurtling of invective.

Mr. President, I hope my colleagues will in fact allow a consideration of Dr. Foster on the merits. That was in fact allowed for Judge Bork. He was defeated. It was allowed for Senator Tower, whose nomination was also defeated, and others whose names never really made it to the floor by virtue of their membership in what were described as racist clubs or organizations.

My hope is that we can return to a level of civil discourse in this society of ours, rather than the shouting and the anger that we see being displayed from day to day, and really try to deal with these issues on the merits.

I think Dr. Foster is entitled to have his name considered on the merits. We hope there will be enough Members who will vote to terminate any attempt to filibuster his nomination.

Seeing the hour of 11:30 is about to be reached, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senated continued with the consideration of the bill.

Mr. WARNER. Mr. President, on behalf of the management, we continue to make good progress. It is obvious we will not have a vote before 12 o'clock, at which time under the previous order the Senate then goes forward to debate the Foster nomination.

Mr. BAUCUS. Mr. President, I thank the Senator. I do not know if the Senator knows this, but Senator EXON has withdrawn both his other amendments.

Mr. WARNER. Good.

Mr. BAUCUS. The only potential amendments remaining, in addition to the managers' amendment, are potential amendments by Senator LAUTENBERG, Senator NICKLES, Senator SARBANES, Senator SMITH, and Senators STEVENS and MURKOWSKI.

Mr. WARNER. Mr. President, I am pleased to say to my colleague—and to announce to the Senate—that Senator SMITH's amendment is now in a situation where it will be resolved. I am not sure of the final outcome. But we will be informed.

Mr. CHAFEE. There will be an amendment.

Mr. WARNER. There will be an amendment, which I have learned of from the distinguished chairman of the committee.

Mr. CHAFEE. Mr. President, the Smith amendment we are working out now, and the language. It is my understanding that will be an amendment that will be acceptable.

Mr. BAUCUS. It may be acceptable. We are still running the trap lines over on this side.

Mr. CHAFEE. Well, in other words, I would not envision a vote on it.

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

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

EXECUTIVE SESSION

NOMINATION OF HENRY W. FOSTER, JR., TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon

having arrived, the Senate will now go into executive session to consider the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General. The clerk will report the nomination.

The legislative clerk read as follows:

The nomination of Henry W. Foster, Jr., to become Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service.

The Senate resumed consideration of the nomination.

Mr. KENNEDY. Mr. President, as I understand, there is an agreement to vote at 2 o'clock. So there is a 2-hour time limitation, an hour to be controlled by the Senator from Kansas, Senator KASSEBAUM, and the other hour to be controlled by the Senator from Massachusetts.

The PRESIDING OFFICER. That is the order.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, over the period of the last 24 hours, I have tried to look at this whole nomination, including the extensive hearings that we had as well as the debate on the floor, to try to determine what is really before the U.S. Senate.

What we have before the U.S. Senate is an extraordinary nominee—an extraordinary human being—who is eminently qualified to serve as the nation's Surgeon General. And I thought back to the beginning, and asked myself: ''What shape did the process take?''

We know that Dr. Henry Foster's name was brought to the attention of President Clinton by a very distinguished former Republican Cabinet Member, Dr. Louis Sullivan, with whom many of us worked very closely during his leadership at the Department of HHS. We know that Dr. Foster's nomination was seconded, effectively, by the presence of Lamar Alexander, a Republican Governor, who recognized the work of Dr. Henry Foster and his leadership ability in confronting the problem of teenage pregnancy and asked him to develop a program to do so. Those are two Republicans that right from the start recommended Dr. Henry Foster for this important position.

And even on the Labor Committee, Senator FRIST—Dr. FRIST—the one Member of the U.S. Senate who is a doctor and who knows Dr. Foster and who has supported his nomination, coming forward and speaking on behalf of Dr. Foster's extraordinary record and qualifications as a physician, educator and community leader.

So, looking back from the very beginning, we see that this nomination was borne of the effort to put forth someone who has been recognized as having a distinguished record—and he has had a distinguished record, which I will speak to—but also someone who was not going to be necessarily identified with any one particular political party, but rather with strong bipartisan support.

We have heard a great deal on the floor of the Senate and in the press, that Dr. Foster was selected for narrow partisan or political reasons. The fact of the matter is that he was nominated because of a very distinguished record.

And what a record it has been—what a record it has been. Dr. Foster possesses an extraordinary record of service. We have a nominee who has demonstrated his commitment to the neediest people in our country and our society. After he graduated from medical school, he could have practiced medicine in any of the cities of this country and in many rural areas and had a very comfortable life. But, no, he did not do that.

What did he do? He went to the poorest areas of America. Why? Because he wanted to serve his fellow human beings. He went to the rural South—and treated women and their children. Most of Dr. Foster's patients had never even seen a doctor before. He went into homes and houses down there that, in many instances, did not even have electricity or hot water. He went there to help and assist deliver babies. To provide pre-natal care to women who had never had access to pre-natal care before. He is a baby doctor. A baby doctor who is about service to his community. Service to people. He is a good and decent man who has committed his entire life—his entire life—to service. Not only did he engage in an program of service in rural Alabama, but his record shows that he was widely recognized for his dedication, ability, leadership and expertise.

He was recognized as a physician. He was recognized as an educator. He was recognized as a researcher in sickle cell anemia and infant mortality and the problems facing the youngest and most vulnerable in our society.

He was recognized by the Institute of Medicine, perhaps the most prestigious assemblage of the medical profession in our country, being elected to that prestigious body with a regular membership of only 500 members. In 1992, he was elected by the membership to serve as one of only 21 members of the Institute's governing council—one of only 21 members selected by the members of the Institute—his peers. What an extraordinary, extraordinary recognition of a man who was selfless, dedicated and passionate about serving those living in the poorest areas of this country.

During his career, after numerous accomplishments, he was selected to be Dean of the Meharry School of Medicine—a distinguished medical school. Did he stop with that? No. What did he want to do? He wanted to be a teacher in the classroom as well as dean of the medical school. Why? Because he wanted to work with young people. He wanted to help train them, and bring more qualified and compassionate doctors into the field of medicine.

Was he satisfied with that? No. He went to his community and developed a program to deal with the problems of teenage pregnancy and the school dropout problem. He developed a program that has made such a difference in the lives of young people, that it has been recognized by a President, George Bush, a Republican President of the United States.

Now that is the record of Dr. Foster. That is the record that is before the U.S. Senate. That is the record of service before us. By voting for Dr. Foster, we are not doing Dr. Foster a favor, we are doing a favor to all Americans. We are doing a favor to those parents of those teenagers who are confronted with the sad prospects of teenage pregnancy, welfare dependency, and hopelessness. We are doing a favor to all those who struggle with the life-threatening illness of cancer. We are doing a favor to all those whose families or friends or neighbors are afflicted with AIDS. We are doing the United States of America a favor, which needs a highly principled and dedicated person to serve his country. That is what we have here: A good, outstanding, selfless individual.

Now, you would not understand that, necessarily, from those who have spoken in opposition to this nomination, because they have their own message, and their message is very clear. They want to send a very particular message. Sure, they have distorted his record, misrepresented his record, and in spite of the fact that Dr. Foster at the committee hearings, and the committee itself, thoroughly answered and refuted the shallow allegations against him, they are repeated again and again and again and again and again. And those that repeat them do a disservice to themselves, they do a disservice to themselves.

What their message is and why this is being done is very clear to me. They are doing this because they want to say to any and every doctor in America, ''If you ever perform an abortion, if you ever do so, even to save the life of the mother, you'll never get a position of confidence or leadership in the U.S. Government, because you'll never make it through the confirmation process by the U.S. Senate.''

That is the message. We understand that. They are not fooling anyone. When, on one hand you have Dr. Foster's extraordinary record of service and on the other, you have the repeated distortions, misrepresentations, and shallow allegations, the message is very clear and it is motivated by narrow political concerns and interests. That is the message that is being sent to doctors in this country. That is the message that is here.

Dr. Foster's opponents prefer to play a negative card. When all of America is struggling to look upward, higher—to reach out for a better future for themselves and their children—his opponents would have us languish in darkness. They do not want to recognize the

light, the hope, that Dr. Foster represents for the future of this country.

During the course of Dr. Foster's testimony at the hearings, Senator PELL asked him what has been one of the most inspiring moments of his life. And Dr. Foster answered, ''Well, it was just after I and my classmates had graduated from seventh grade, and my father brought us out to the edge of town and treated all the children in our class to an airplane ride.'' Two children in the front with the pilot, children in the back—Dr. Foster described the way he felt when that plane took off.

He said, ''When we got up in that air, every child that was in that class looked out and they could see trees as far as the eye could see. They could see that there was a broader land, that there are lakes out there and there are hills.''

Perhaps for the first time, they saw that there was a broader America than just the school house where they went to the school, and their own small home where they grew up, in a segregated society with little opportunity.

He said:

> That plane ride was one of the most inspiring moments of my life, because it taught me that there is a future out there, and that I could be a part of it. My hope and dream of service is to provide that same ''airplane ride'' to the young people all across this country.

That is the soul of Dr. Foster. You would not know it listening to the distortions and misrepresentations of the opposing side; you would not know the true record of the nominee who is before us. You would not know it when they repeat and repeat and repeat these charges that any fair-minded person would understand have been responded to.

How many political primaries are we going to have on the floor of the U.S. Senate? The election is 18 months away. What was yesterday? Super Wednesday? What is today? Super Thursday? What are we going to say to every person that is nominated? Do we tell them that they are going to go through this pillory to serve the American people?

That is the issue. Are we going, in this institution and in this body, to appeal to the better instincts of its membership? Or are we going to be slaves to those kinds of interests that are holding hostage the nomination process here before the U.S. Senate? I hope, Mr. President, that the higher angels of our character will come out today when we vote at the hour of 2 o'clock.

I see my colleague on the floor, the Senator from Washington, who has been such a leader on this issue and who speaks with such eloquence and insight into the qualifications of this nomination.

I yield her 5 minutes.

Mrs. MURRAY. I thank my colleague from Massachusetts for his outstanding work on this nomination. I remind my colleagues that we should be here debating the nomination of Dr. Henry Foster and what message and tone he can bring to this office. But we are not. We are here debating whether or not Dr. Foster will have the opportunity to have an up-or-down vote on the floor of the Senate.

I have been working with Dr. Foster for a number of months now. It is extremely disappointing to see this fine man, after all he has been through, being denied a vote on the floor of the Senate. I hope our colleagues across the aisle can step back today and think about the larger message. Think about what will happen if we block this vote today and do not allow this man with great dignity to have the vote that he deserves after the last 5 months.

Throughout this debate, I have been focusing on what Dr. Foster brings to this office. Certainly, he brings the issues of women's health care clearly to the forefront of this Nation for the first time in our history, and that is a good thing. Certainly, he brings the ability to send a message to our teenagers, a vision of hope, a vision that they can be somebody. That is something that is needed in this Nation.

But I fear, Mr. President, that many of our American viewers today do not realize that that is not what this vote is all about. This vote has become a vote about Presidential politics, and I find that very sad. As we have worked to get to the last three votes, it has been surprising and saddening to hear what some of my colleagues have expressed. They do not feel they can vote for this candidate—not because he is not qualified, not because they think the process should be fair. They tell me they do not want to be seen as giving one Presidential candidate a vote over another Presidential candidate. It has become an issue of winners and losers. Who are the winners? Who is going to win? I can tell you who the losers are. The losers are the American people. The American people will be the losers because not only will they lose a fine candidate for Surgeon General, they will lose because the process has been sullied, and I think that is a sad statement for this Nation.

I think the winner—no matter what the outcome of this vote—is Dr. Foster. He is a man of dignity, a man of courage, and he is a man of honor. Every one of us—every one in this Nation—should stand up and give this man a loud round of applause. He deserves it. He has lived through torture—name calling, watching his whole, entire life be put in print—and he has shown all of us, as he sat before the committee, that he is a man of dignity. Dr. Foster certainly is the kind of person that deserves to be in the Surgeon General position, and he is also a man we all want to be like. He is a man of honor, and he should be very proud today that he has shown this Nation how to be a leader and what we should expect of leaders and what we want our Nation's leaders to look like.

I hope that all of our colleagues will step back and think about the larger message as they vote today. This man deserves a vote on the floor of the Senate. But above all, he deserves our applause for going through this process and showing us what a leader really looks like.

I thank my colleagues and I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from California, Senator BOXER.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Mr. President, I thank my friend from Massachusetts and my friend from Washington for their extraordinary leadership in trying to get a very simple premise fulfilled, and that premise is that Dr. Foster deserves an up-or-down vote. It is wrong to deny this man a vote. Let him stand or fall on his merits or demerits.

I saw him standing next to the President yesterday at the White House, saying, ''All I ask for is fairness.'' He wants a vote, and 57 Members of the Senate—Democrats and Republicans—said, ''That is right, Dr. Foster; you deserve a vote.'' But a minority said no. If I were one of them, I would not have slept very well last night because it is a mean-spirited thing to do to a decent American. It is not fair. If Americans are anything, they are fair.

Dr. Foster is a pawn in a political game—a pawn in a political game—a physician who went to work in rural America when he could have had a cushy job. He is a physician who went into the toughest, most difficult parts of our Nation to help lower the infant mortality rate, and he did. He is one who took on the problem of teenage pregnancy. It is incredible that my colleagues on the other side of the aisle who are trying to block this vote criticize his program. What did they ever do in their lives to help stop teenage pregnancy? Let us hear what they have done. Oh, they throw the stones. What have they done? Have they walked into the toughest parts of America and taken a problem on that nobody else wants to take on? I do not think so.

They have a pretty cushy job right here. But they throw stones at a man who should be honored—and, by the way, he has been honored by President Bush, a Republican, I might say, who gave him a Thousand Points of Light Award. He was honored by Dr. Louis Sullivan, a former Republican Secretary of HHS, who recommended him for this job. People say President Clinton was playing politics. I have to tell you, this was the most bipartisan appointment I have seen. Senator KENNEDY made that point at a press conference yesterday. It is a truly bipartisan appointment.

Dr. Foster is being denied a vote because two Republican candidates for President want to block a vote on him. The Republicans are being told, ''You have to be loyal. Do not allow a vote on this man. It will hurt our chances.''

Playing politics is not what a U.S. Senator is supposed to do. They are

supposed to be fair. They are supposed to be just. They are supposed to step up to the plate and put political considerations behind them and give a man a chance.

I have to tell you, maybe these two political candidates for President will do well in the short run. But do you know what I think? In the long run, I do not think they will do very well because they are out of step with mainstream America. If you ask the American people what are the two important things they want to see in a President, it is fairness and courage. And it is not fair to deny this man his day. It is not courageous to cower to the right wing of one political party. So, in the long run, mainstream America is not going to look kindly at these two candidates—mark my words.

I think this debate has been somewhat disturbing. Last night I was on a TV show with one of the leading opponents of Dr. Foster, and that Senator called Dr. Foster an abortionist. I think it is an outrage. He owes Dr. Foster an apology. Dr. Foster brought thousands of babies into this world and he is called an abortionist? Thirty-nine abortions over 38 years, a legal medical procedure, and he calls him an abortionist on national TV. He is lucky he cannot be sued for defamation of character.

Dr. Foster is an ob-gyn, an obstetrician/gynecologist, a decent man, and he deserves a vote. I stand very proudly with the Senator from Massachusetts, with the Democratic women Senators, with the 11 Republicans who had the guts to stand up and say fair is fair, and I hope and pray that we have a different result today. If we do not, I think the fallout will be much greater than anyone now anticipates.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 40 minutes remaining.

Mr. KENNEDY. I just yield myself 15 seconds, and then I will yield 5 minutes to the Senator from California.

In one of the most important considerations in debate, the silence on the other side is deafening—their willingness to engage in this debate and discussion, and we have nothing to speak about on the other side.

I yield 5 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts. I thank the Senator from Washington for all the work she has done on this matter.

I really address my remarks, Mr. President, to 43 Members of this body, and I want to share with them some of my thoughts and see where they register with them.

Let me start by saying that my basic belief regarding this nominee is that—in the absence of any compelling evidence of misconduct, insufficiency of professional qualifications, or flaws in character—the Senate owes it to the President and the nominee to conclude its advise-and-consent role and grant its approval. I say that particularly in view of what has happened to his predecessor.

In my belief, it is not appropriate for a minority of the Senate to prevent a vote on a Presidential selection based on unsubstantiated arguments about what Dr. Foster might have known or should have said. That is not the Senate's role.

In addition, it is unprecedented to deny the President even an up or down vote on a well-qualified nominee for a public health position such as Surgeon General.

Therefore, I believe that Dr. Foster is entitled to an up or down vote by the Senate. Not a procedural vote, but a real majority vote that will show the Nation that a majority of Senators favor Dr. Foster.

Let me also say that I believe that many of the concerns raised by Dr. Foster's opponents over the last 5 months have been a smokescreen of false issues, innuendo, and other distractions designed to obscure the central issue here, which is a woman's right to choose an abortion.

However, I am grateful that Dr. Foster's nomination has been investigated approved by the Labor Committee by a 9–7 vote and finally been brought to the Senate floor. It is my hope that in the remaining time for debate, Dr. Foster's real qualifications can be made clear and any remaining issues can be raised and answered, once and for all, and that a few more Senators can be persuaded.

The concerns of Dr. Foster's critics boil down to a few basic elements, which we have continued to hear over and over. These arguments are:

Dr. Foster has insufficient professional qualifications and credentials to serve as Surgeon General;

Dr. Foster provided contradictory information on the number of abortions he has performed;

Dr. Foster knew about the Tuskegee experiment, in which 400 black men with syphilis were left untreated, before it was revealed in 1972;

Dr. Foster performed sterilizations of mentally retarded women during the 1970's; and

Dr. Foster's I Have a Future teenage pregnancy prevention program focuses on contraception rather than abstinence.

While most of these issues have already been thoroughly addressed and dismissed, I would like to briefly summarize the factual responses to each of them, based on what I have learned:

On the issue of Dr. Foster's qualifications and credentials, I believe that they are impressive. Dr. Foster, is in rough chronological order:

A graduate of Morehouse College and the University of Arkansas medical school;

A former U.S. Air Force captain;

An examiner for the American College of Obstetricians and Gynecologists;

An advisor to the National Institutes on Health and the FDA on maternal and child health;

A member of the National Board of Medical Examiners, the accreditation council for graduate medical education, and the board of the March of Dimes;

A Distinguished Practitioner recognized in 1987 by the National Academies of Practice;

Acting president of Meharry Medical College, where he has served for the last 21 years as dean of Medicine and Chairman of Obstetrics.

On the issue of the contradictory estimates of abortions Dr. Foster performed and his overall credibility:

A review of 38 years of medical records determined that the actual number of abortions Dr. Foster has performed or been the doctor of record are small in number [39]—particularly in view of his estimated delivery of 10,000 live babies.

The initial confusion surrounding this number resulted from Dr. Foster having been listed as the attending physician for additional procedures that he himself did not perform, as well as disputes over whether hysterectomies Dr. Foster performed to protect the health of women should be counted as abortions if pregnancies were discovered during the procedure.

During his hearing, Dr. Foster provided the following explanation of the early contradictions: ''In my desire to provide instant answers to the barrage of questions coming at me, I spoke without having all the facts at my disposal.'' The majority of the committee found this explanation reasonable enough to approve the nominee.

On the claim that Dr. Foster consented to the infamous experiments at the Tuskegee Institute:

While Dr. Foster was at Tuskegee during the time of the study, his expertise was maternal and child health rather than sexually transmitted diseases;

A full committee investigation showed that the possibility Dr. Foster knew about the study is tenuous at best, resting on assumptions about what he should have known or might have been told, rather than direct evidence; the doctor whose statements have been used to suggest Dr. Foster failed to act promptly has stated repeatedly that Dr. Foster did not know of the study before it was revealed in 1972.

Without any direct or concrete evidence that Dr. Foster actually knew about the experiments and failed to take action, it is not reasonable to judge him a participant or to burden him with the responsibility of having to shut down an experiment he did not control nor was he a party of this ill-conceived study.

On the assertion that Dr. Foster performed sterilizations of mentally retarded women:

Dr. Foster sterilized retarded girls at the request of their parents under the established practice guidelines and ethics of the times, and wrote sensitively about these cases and the danger and tragedy of forced sterilization in 1974;

If there were any real questions about Dr. Foster's ethics, he would not have been endorsed by every major medical association in the United States.

On the claim that I Have a Future Program does not promote abstinence:

This after-school program focuses on delaying teenage pregnancy, including providing education about abstinence and increasing self-esteem as a way of preventing early sexual activity. Only if necessary are participants referred to medical personnel for information about contraception;

Every press article and description I have seen talks about how the program emphasizes abstinence and does not just throw condoms at the kids. Whether or not all program brochures include the word ''abstinence'' or not is not the central issue.

In fact, the central motivation for the I Have a Future Program was Dr. Foster's observation that simply providing contraceptives to at-risk teens was not an effective form of pregnancy prevention for at-risk teens, and self-esteem and personal goal-setting must be included.

Should he be denied because abstinence was not on a piece of paper?

In all, here is a man who has impressive qualifications, an upstanding character, and reputation for integrity in his home community and among his professional peers. He has no glaring flaw that justifies denying him confirmation.

Instead—and this is increasingly clear—there is just one real reason that he is being opposed: he performed 39—the number is disputed—medically necessary legal abortions as part of a career that includes 10,000 deliveries of live babies.

What I would like to point out is that 39 is an amazingly small number, considering the human situations that Dr. Foster has encountered—women who have been raped; women whose mental or physical condition is such that they could not give birth; questions of major fetal deficiencies.

The fact is that out of 10,000 live babies delivered, there were few cases where Dr. Foster performed a medically necessary and appropriate abortion. To me, this is a very small number.

Were the procedures legal? Were they in accord with medical standards and performed as part of his established responsibilities? The answer to these questions, of course, is yes. Nothing has been raised to contradict this statement.

What is clear to me from the last 5 months of debate over Dr. Foster's nomination is that there is now a question whether any obstetrician could ever hold the office of Surgeon General if they have performed even one legal, medically appropriate abortion.

That clearly is the question in my mind. I really believe the issue is that simple. And I strongly believe that the answer to that question should be yes.

I believe this body has but one choice and I am hopeful that, of the 43 there are 3 who will come forward and simply say, in fairness, Dr. Henry Foster deserves a vote in this body.

I yield the floor.

Mr. COATS. Mr. President, I doubt that anything I say will shatter the deafening silence the Senator from Massachusetts alluded to. But it will at least interrupt. We have a number of speakers. Mrs. KASSEBAUM, who normally would be managing this, is chairing a hearing of the Labor Committee. I know the Senator from Massachusetts, who was a former chairman of that committee, understands that sometimes they do not end as quickly as you would hope. She will be here as soon as she can. A number of other Members plan to speak on our side. Several of them are tied up in that same hearing but will be here shortly.

Mr. President, if yesterday's vote is any indication, Dr. Foster will not be confirmed as the next Surgeon General of the United States when we take this vote at 2 o'clock. I believe that conclusion is justified by the record. The Labor and Human Resources Committee held what everyone has described as thorough and fair hearings. Dr. Foster was given every opportunity to present, at whatever length of time he required and in whatever detail or depth he required, his qualifications, his experience, and to present his answers to the questions that were raised.

Many have concluded, on the basis of that hearing, those who sat through the hearing and those who have examined the record, that Dr. Foster did not satisfactorily answer the many disturbing questions that were raised, that a disturbing pattern of behavior and of responses—whether directed by the White House or not I do not know for sure—emanated from those hearings and left many with serious questions. I detailed many of those in a letter to my colleagues, a very lengthy letter comparing the public documents, matters of public record, which in many numerous instances was in direct contradiction to Dr. Foster's version of the various incidents; issues in this debate that arose. Some of those will be addressed here today. That, however, has been a matter of examination for all Senators. They have all had the opportunity to do that, and in a sufficient length of time to do that.

I believe that the conclusion that Dr. Foster is not the right man for this job is justified by the record. Questions of medical ethics that were raised are not just disturbing, in my opinion they are disqualifying. Questions of credibility in this Senator's opinion have never been adequately answered leaving us with a candidate that the New York Times says ''fails the candor test.''

These problems, problems that the administration and problems that the nominee himself were largely responsible for, I believe have decided the outcome of this procedure. But I would like to spend a moment this afternoon on the broader lessons that should be taken from the tenure of the former Surgeon General, Dr. Elders, and the apparent failure of this nominee to receive the necessary support for this position, lessons that hopefully will inform the selection of the next nominee for this office.

The President of the United States needs to understand that there are millions of Americans committed to the protection of innocent life and the protection of the innocence of childhood. They are not fanatics to be demonized. They are part of the responsible mainstream of American life.

They understand that this administration disagrees with them. But what they do not understand is why this administration has chosen to actively assault their deepest beliefs, to disdainfully dismiss their highest ideals, to treat them as if they were beneath civility.

This bias has been particularly obvious in the Office of Surgeon General. The former occupant of the Surgeon General's Office, Dr. Joycelyn Elders, abdicated her role as spokesman for public health entirely, and became what appeared to be a full-time spokeswoman for radical causes. And this nominee has shown, as I believe the record indicates, little sensitivity for the moral concerns of countless Americans whom he himself called ''right-wing extremists.''

There is almost a mantra coming out of the White House, a mantra coming out of the Democrat Campaign Committee, a mantra being heard on this floor that any opposition to the President, almost on any subject, is the work of right-wing extremists. Boy, what a powerful group they are. I am not sure even if we can identify who they are. But any opposition raised to what the President deems his priority, his agenda for America, is dismissed either by the President or by his spokespeople as just the work of the right-wing extremists and, therefore, to be dismissed.

I would suggest it goes to something far deeper than that. It goes to an undercurrent that threads its way throughout American life, American culture. It goes to the values that many Americans hold dear, people who do not even belong to any particular political party, people who would not begin to identify themselves as right wing or extremist or anything else—just concerns that affect everyday Americans, American families, American parents, those of us that are concerned with some of the breakdown in our culture and some of the undermining of our values.

So we raise questions about the bully pulpit that is being used by the administration, by the President and by the Office of Surgeon General to advocate an agenda that many of us feel is out of the mainstream of what the Democrats describe as the mainstream, but very much in the mainstream of what America has tried as America's agenda. We can debate this. We can debate what is the best course of action to take, and what direction we ought to go and what our values ought to be. We are not very successful at legislating those values. And I do not think it is possible to legislate those values. These problems are not going to be solved in this Chamber. They are going to be decided and solved around the kitchen table, in the family rooms, and where Americans live and work, and where the most discourse takes place among our citizens.

But there are many who are concerned that the Office of Surgeon General has been used as an advocacy post for a certain agenda, an agenda that many of us feel is out of step with America's agenda, and the agenda of at least a very substantial majority of our people.

This use of this position for this purpose makes the work of the Surgeon General literally impossible because the role of that office traditionally has been—and I think in most of our definitions should be—the role of building consensus around important public health issues. Instead, it is hard to argue any other way but that the administration has turned public health into an ethical battleground by enphasizing not issues that unite us but issues that divide us. And more than that, they have ridiculed anyone who dares to disagree, including the Catholic Church, the pro-life movement, and millions of parents who do not believe that condoms are a universal substitute for moral conviction.

This administration by this attitude has undermined the public health discussion in America, and it has squandered the potential that exists for the Surgeon General and the Office of Surgeon General.

Now the President, it appears, will have again a choice to make with another nominee—whether that nominee will bind our Nation or rend it, whether it will unite the Senate or divide us. I have some questions for the administration, questions that I think deserve serious consideration and deserve an answer. Mr. President, when will you finally nominate someone who can unite us as Americans around important issues of public health instead of polarizing us? When, Mr. President, will you choose a candidate for this office who is not an advocate of the most divisive issues of our times but is an advocate for those issues that can bring us together as a people? When, Mr. President, will you allow us to return our focus from moral controversies to issues of public health? We are not asking you to send us someone that we always agree with. But we are asking you to send us someone who does not bitterly divide us as a people. If your administration fails to do this, the consequences will be immediate, and I am afraid unfortunate. Because if the President insists that the Office of Surgeon General is a bully pulpit for radicalism, for advocacy, we will be forced to ask if the office should exist at all. I hope this is a decision we do not have to make. And I hope that the President will make his next choice with a lot more care than he exercised on his last two choices.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the Chair.

Mr. President, this is decision day on Henry Foster. This is not decision day on Joycelyn Elders. This is not decision day on Bill Clinton. We get to do that in November 1996.

This is decision day on Henry Foster. We should be talking about Henry Foster and is he or is he not qualified to be the Surgeon General of the United States of America. I believe he is.

Now, when one wants to ask: Where are those people who will unite us on broad issues of public health? Bill Clinton has done it. He gave us Dr. Phil Lee, a distinguished physician, who is our Assistant Secretary of Health, who is coordinating health policy in a time during shrinking budgets and higher need. He has given us Dr. Varmus to head the National Institutes of Health when George Bush delayed the appointment of the head of NIH because of a litmus test on fetal tissue. But Dr. Varmus is attracting the kind of young talent and retaining the seasoned talent for NIH to continue to be the flagship of research of the life science issues in America.

Bill Clinton is meeting his responsibility. Today, it is our responsibility to pick a Surgeon General. And we are not voting on Dr. Elders. We did that. We are voting on Henry Foster.

Henry Foster is a man unique unto himself, bringing his own credentials and expertise. He is not Joycelyn Elders in wingtips.

Now, let us get it straight. I regret that abortion has become the focal point of this debate rather than the broad policy issues of public health. We should be focusing on who can focus on prevention, primary care, and personal responsibility in a public health agenda. That is what it is all about, and Dr. Foster has done that.

We knew that, yes, there would be those who would focus on the big A word, abortion, so in a public hearing at the Labor Committee, chaired in a very outstanding way by Senator KASSEBAUM, I asked Henry Foster tough questions because I felt the public had a right to know. I said to Dr. Foster, ''Did you ever perform an illegal abortion?'' He said, ''Absolutely not. I have only done those things that were legal and medically necessary.'' I said, ''Did you ever do a trimester abortion?'' He said, ''Absolutely not.'' I said, ''Did you ever do an abortion for sex selection?'' He said, ''Absolutely not.'' I said, ''Did you ever sterilize mentally retarded girls without parental involvement?'' And he said, ''Absolutely not.''

So that is the record, and it is on the record. ''Absolutely not.'' And on this sterilization study that has been discussed, the record is clear. Dr. Foster's name is on a study of a variety of people who conducted hysterectomies on retarded women, and on those three in which he was involved—and he was involved in only three—there was parental involvement and parental consent. They were acting in loco parentis, in the guardianship role of parents. Now, we believe parents should be involved. I support parental consent for abortion. There was parental consent in this area. Henry Foster did the right thing as a clinician, and he did the right thing in involving parents.

So that is where we are on these issues. Now, the question becomes with Henry Foster, when is good good enough? This man has devoted his life to public service and the practice of medicine. To be Surgeon General of the United States, to serve your country, when is good good enough? Thirty-eight years in the practice of medicine. When is good good enough to be Surgeon General? When you serve in the U.S. military as a captain, as a physician, when you have done that job for your country, when is good good enough to be Surgeon General? When you practice medicine in a town like Nashville, and you are chosen to be head of your own bioethics committee, you are asked to be the dean of a medical school, is that not good enough credentials? What more do we want? Competency, well respected by your peers, 38 years of devotion, volunteer work in the community, starting a program called ''I Have a Future,'' going into the public housing projects to say to kids that you just say no.

Schoolmarmist admonitions with these Victorian values only get good headlines. They do not get good results. You have to go to those kids and reach out to them. And the way you get them to say no is when they say yes to the possibilities of a life where they can define themselves as full men and women, not only in terms of their sexual prowess.

That is what he did. And that is why George Bush wanted him to be a point of light, because these kinds of programs are a point of light.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MIKULSKI. Could I have 1 additional moment?

Let me just conclude by saying this. In a room in a meeting with Dr. Foster, I said to him, ''What do you want to do as Surgeon General?'' He said, ''I want to help all Americans live better and I

want to help poor kids do better and make sure they have a future.''

Dr. Foster has devoted his life to giving other people a chance. Let us give him a chance and not hide behind parliamentary procedure. Let us make this decision day for Henry Foster.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I believe the Senator from New Hampshire has been waiting. Am I correct on that?

Mr. SMITH. I have been here. Yes.

Mrs. KASSEBAUM. I would like to yield to the Senator from New Hampshire 15 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. The Senator from Pennsylvania has said he is only asking for 3 minutes. I will be happy to yield and then take my time after the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. Is the Senator from Kansas or the Senator from Massachusetts yielding time to the Senator from Pennsylvania?

Mr. SPECTER. I ask the Senator from Massachusetts to yield 3 minutes.

Mr. KENNEDY. Three minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, it is my hope that at least three additional Senators will vote in favor of closing debate so that Dr. Foster can receive a vote on the merits.

I believe Dr. Foster is entitled to his day in court. He is entitled to his vote in the Senate. The sole issue which is holding up this confirmation is the issue of abortion. Cutting to the bone, that is it, pure and simple. And I think it is simply wrong to deny Dr. Foster confirmation because he has performed an operation which is lawful under the Constitution of the United States. And you see the pattern emerging. In yesterday's Washington Times, it is Ralph Reed, Jr., who is calling the tune for those who are opposing Dr. Foster, and in today's Washington Post it is Gary Bauer who is handing out plaudits to those in the Senate who are opposing Dr. Foster. I believe it is inappropriate for this body to deny this man a vote on the merits and to deny confirmation for performing a medical procedure, abortions, lawful under the U.S. Constitution.

I would remind my colleagues, Mr. President, that there is nothing in the Contract With America, which was the basis of our Republican victory last November, nothing in the Contract With America, on abortion. And that is not a mandate from the American people defining the Republican stand. I would also remind my colleagues that if this body is going to become embroiled in this kind of an ideological battle, we are not going to be able to take up the issues which the American people elected us for. They did not elect us in 1994 on the abortion issue. They elected us to have smaller Government, less spending, reduced taxes, and strong national defense. Those are our core values and, if I may say, our core Republican values. And it is a very dangerous precedent for this body to have an ideological debate.

If we are going to subject people who want to be public servants to 60 votes, not the democratic majority, we are going to discourage people like Henry Foster and other qualified individuals from coming to this town, this Government, to serve. If there had been a demand for 60 votes for Justice Clarence Thomas, he would not be sitting on the Supreme Court of the United States today. And I know there have been nominees who have had a past filibuster test. But the appropriate standard, the nonideological standard is to say, ''Is he qualified when he performs a medical procedure which is constitutional?'' I yield the floor.

Mr. KENNEDY. We reserve whatever time we have. I believe the Senator from New Hampshire has been typically courteous to permit the Senator from Iowa to proceed for 3½ minutes.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3½ minutes.

Mr. HARKIN. Thank you, Mr. President.

Mr. President, I want to focus my comments a little on the comments made yesterday by the majority leader, Senator DOLE. I have been for some time involved in the whole issue of filibusters. Senators may remember I tried earlier this year to do something about filibusters. The filibuster is being used here today. So, I looked it up in the RECORD, and here is what Senator DOLE said yesterday. He said, ''Yes, supporters must obtain 60 votes.'' That is the way it works. I had the Congressional Research Service do a little work in that area. I have heard people say, ''Oh, this never happened before.'' It has happened a lot.'' He goes on to say, ''Since 1968 24 nominations have been subjected to cloture votes.'' As Paul Harvey might say, ''Now for the rest of the story,'' because that is not quite correct. The fact is, Mr. President, that nominations have been defeated by filibuster after failure to invoke cloture in only two cases: the first was Abe Fortas to be the Chief Justice of the Supreme Court in 1968; the other was Sam Brown to be an Ambassador in 1994. Both nominations were made by Democratic Presidents and defeated by Republican filibusters.

Senator DOLE was half right. He said that there had been 24 filibusters. What he did not say was that 22 of them went through, and they got their nominations. Only two did not make it—Abe Fortas and Sam Brown.

I might also point out, Mr. President, that Democrats have never blocked a nomination of a Republican President by filibuster and defeat of a cloture motion. Never. Not once. Now, until recently we never had cloture votes on nominations. Up until 1949 you could not filibuster a nomination. Then the rules were changed and you could. And even then comity prevailed on both sides of the aisle. During the Eisenhower administration we let Ike have whatever nominees he wanted. It was not until 1968 that the first filibuster was held. That was on Abe Fortas. And cloture was not invoked.

The second, I said, was in 1994 on Sam Brown. But during all those years when there were Republican Presidents, a Democratic Senate never defeated, not once, by a filibuster a nomination of a Republican President. Those are the facts. And they cannot be disputed, Mr. President. Those are the facts.

So I would say to my friends on the other side of the aisle, do not hide. Do not hide behind this procedure. Have the guts to come out and vote up or down on whether Dr. Foster ought to be the Surgeon General of the United States. And for once and for all, put behind us this filibuster procedure on nominations. I believe, Mr. President, we are going down a very bad road, a very bad road, because if we continue this, the worm will turn. There will be a Republican President and there will be a Democratic Senate. And then the shoe will be on the other foot. And I say that is the wrong road for us to go down. Let us invoke cloture and have an up or down vote. Let us not hide behind procedure.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 15 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Senator from Kansas for yielding me this time. Mr. President, I rise in very strong opposition to Dr. Foster being confirmed as President Clinton's nomination to be Surgeon General of the United States. I also at this point would like to thank Senator KASSEBAUM for the fine job that she did with the hearings that were conducted very fairly, and I thank Senator COATS for his leadership in bringing information to the forefront regarding this nomination.

As Senator COATS has ably pointed out during this debate, there are many troubling issues surrounding the confirmation of Dr. Foster. And I always feel somewhat sad to have to be involved in these debates when individuals like Dr. Foster are brought into the arena, so to speak, because appropriate research was not done on the

nomination prior to placing that person in the arena, which has happened in this case, I believe.

The issues that I am concerned about include the credibility of Dr. Foster's responses to questions about his knowledge of the Tuskegee syphilis study, the infamous experiment with hundreds of black men with syphilis where they were deliberately left untreated in the name of medical research.

In addition, several members of the Labor Committee have indicated they remain unconvinced that Dr. Foster was, as he claimed, ''in the mainstream'' of medical practice when he performed hysterectomies on mentally retarded women without securing independent-party written consent and even years after the State and Federal courts, as well as the U.S. Department of Health, Education and Welfare had proscribed those and similar practices.

One of the principal issues surrounding this nomination is the credibility of Dr. Foster with respect to the number of abortions that he has performed. Various times since he was chosen by the President to be Surgeon General, Dr. Foster has claimed 1, 12, 39, and 55 abortions. And there is even a transcript of a public proceeding in which he appears to have claimed that he performed 700. The interesting thing about this, whether it is 1 or whether it is 700, one of those individuals, you never know, could very well, had they had the opportunity to live a full life, been the nominee for Surgeon General of the United States of America at some point in the future.

All of these doubts about Dr. Foster were summed up just right I thought by the New York Times editorial entitled ''Ending the Foster Nomination,'' calling Dr. Foster a flawed nominee whose nomination involved sacrificing the principle that candidates for high office must fully disclose relevant facts and attitudes. The Times concluded that Dr. Foster's nomination deserves to be rejected.

Mr. President, even though there are many reasons to oppose the nomination other than his performance of and advocacy of abortions, let me focus my remarks this afternoon on just how extreme—I emphasize the word ''extreme''—Dr. Foster's abortion policy views are. Polls by Gallup and others have consistently found that over three-fourths of the American people believe that abortion should be prohibited except to save the life of the mother after the first 12 weeks of pregnancy. Yet in the 1984 speech to Planned Parenthood of Eastern Tennessee, Dr. Foster expressed his strong opposition to restrictions on abortion after 12 weeks, about 150,000 of which are performed annually. Dr. Foster said—and I quote—''We in the movement must work to prevent the erection of such barriers to late abortion access.'' That is after 12 weeks. In other words, Mr. President, Dr. Foster's view is that abortion should be legal, on demand, throughout pregnancy at any time. Let us explore for just a couple of moments what that means.

Last Friday Senator GRAMM and I introduced S. 939, the partial-birth abortion ban of 1995. Our bill is companion legislation to a bill called H.R. 1833 reported favorably by the House Judiciary Subcommittee yesterday.

Mr. President, partial-birth abortions are first performed at 19 to 20 weeks of gestation, very often much later.

To give my colleagues a clear understanding of how well developed an unborn child is that late in pregnancy, I have with me an anatomically correct model of a child—not a fetus, it is a child. It is a little child. Its face is formed; its arms, toes, fingers, eyes—this is a child.

Dr. Foster said he never performed a late-term abortion, and I have no reason to doubt that. I do not know. That is the statement that he made, and I am not accusing him of performing late-term abortions, but he is not blocking them either. So if you are not a murderer but you do not stop a murder, I think you can draw the conclusion.

I brought some photographs to show that premature babies of this very age are the victims of these partial-birth abortions. In this photograph, this is Faith Materowski. She was born at 23 weeks of gestation, just 3 weeks older than this little model would be, weighing 1 pound and 3 ounces, Mr. President. This photograph was taken about a month after she was born, and I am happy to report that Faith survived. She survived because her mother wanted her to live not die.

Let me explain, with the aid of a series of illustrations, exactly what is done to children about the same age in a partial-birth abortion. As I do, keep in mind that Dr. Martin Haskell, who by his own admission has performed 700 of these partial-birth abortions as of 1993—Lord knows how many after that—has told the American Medical News, the official newspaper of the AMA, that the illustrations and descriptions that I am about to present are accurate, technically accurate. In the first illustration, the abortionist——

Mrs. MURRAY. Will the Senator yield?

Mr. SMITH. I will not yield. I will be happy to yield when I finish and engage in questions and answers on your time.

In the first illustration, the abortionist, guided by ultrasound, grabs the baby's leg with forceps.

As you see in illustration 2, the baby's leg is then pulled from the birth canal. So you see the forceps now have grabbed the legs, pulling the baby from the birth canal.

In the third picture, in this so-called partial-birth abortion process, the abortionist delivers the entire baby, with the exception of the head—the entire baby. So I ask my colleagues to think about this, as to whether or not this is some impersonal thing or whether this is a child now in the hands of the abortionist. It could be a doctor, Mr. President. If it were a doctor who wanted to save that life, the life would be saved; the baby would be born and the life would be saved. The only difference is it is an abortionist.

In illustration No. 4, the abortionist takes a pair of scissors and inserts the scissors into the back of the skull and then opens the scissors up to make a gap in the back of the skull in order to insert a catheter to literally suck the brains from the back of that child's head.

That is what happens in the so-called partial-birth abortion. Anywhere from the 19th or 20th week up, this can happen. It is unspeakably brutal, and yet some say the child does not feel this. Take a pair of scissors and slowly insert them into the skin in the back of your neck a little way and see how that feels to you.

According to neurologist Paul Renalli, premature babies born at this stage may be more sensitive to painful stimulation than others. I would think my colleagues would be repulsed by this and most Americans would be appalled, sickened, and angered that such a brutal act could be carried out against a defenseless child. This is a child, I say to my colleagues. This is a child; a defenseless child.

I ask you, would you put your dog to sleep by inserting scissors in the back of the neck and using a catheter to suck out its brains? Yet, under the Supreme Court Roe versus Wade decision, the brutal partial-birth abortion procedure that I just described is legal in all 50 States—all 50 States. And, in fact, the National Abortion Federation has written:

> Don't apologize, this is a legal abortion procedure.

Exactly my point and exactly the connection with Dr. Foster. And before my colleagues stand up and accuse me of saying it, I am not accusing Dr. Foster of doing this. What I am accusing Dr. Foster of is ignoring the fact that it is taking place and accepting the fact that by any means, any means legal—and this is legal—by any means legal, a life can be taken. So lest my views get misrepresented on the floor of this Senate, I am making it very clear.

So when Dr. Foster says he wants to prevent the erection of barriers to late-abortion access, he is tolerating and condoning this. That is a late abortion, and he is tolerating it and allowing it to happen. Based on Dr. Foster's own statement, one can only conclude that he would oppose, and oppose strongly, the very bill that I have introduced. I have not heard otherwise.

The grotesque and brutal partial-birth abortion procedure that I just described and illustrated on the floor of the Senate today can and should be outlawed. And if the Surgeon General of the United States, whoever he or she may be, spoke out against it, it would

be outlawed, and that is the kind of Surgeon General that I want.

The bill that Senator GRAMM and I have introduced would outlaw it, and our bill amends title 18 of the United States Code so that:

> Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus should be fined . . .

Not the woman, the doctor—called a doctor—the abortionist.

So, Mr. President, when Dr. Foster speaks of these barriers, he is talking, in effect, about bills like mine, like the bill that would ban partial-birth abortions. He is providing, when he says a woman's right to choose, a woman's right to choose partial-birth abortions. This is what it means. Let us put some meaning to the words, because that is what it means.

Out of all of the controversy surrounding Joycelyn Elders, all of the unbelievable statements and the controversy that we endured during her all-too-long and lengthy tenure, I cannot understand why the President would choose as his successor someone whose past record and policy views on the pressing social questions of our time are so out of tune, so far out of sync, with the rest of the American people.

The Surgeon General should be someone that the American people have confidence in, someone who would put the intense controversy of the Elders years behind us. Yet, President Clinton apparently, without even reviewing carefully Dr. Foster's record, which places him, unfortunately, in this debate, did not do a good job of investigating his past and even recklessly went ahead and made this nomination.

Mr. President, there are over 650,000 physicians in the United States of America—black, white, male, female, Asian, Hispanic, Indian. Surely, surely there is one out of 650,000 that could be brought to the floor of the U.S. Senate that would not have this kind of controversy and this kind of debate following the Elders reign.

My friend and colleague, Senator MIKULSKI, a few moments ago said on the floor that she could not understand why this whole thing was about abortion, why the debate was so focused on abortion. In the Washington Post this morning—I might answer the Senator from Maryland by saying this—here is what President Clinton said:

> Make no mistake about it, this was not a vote about the right of a President to choose a Surgeon General. This was really a vote about every American woman's right to choose.

That is why it is about abortion, because the President is making it about abortion, because he wants this kind of thing to occur.

Mr. President, I am confident that when the votes are counted, it is going to be the same result as yesterday, and Dr. Foster will not be the next Surgeon General.

Several Senators addressed the Chair.

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

Mrs. MURRAY. I yield myself 1 minute, and then I will yield to my colleague.

Mr. President, I am appalled and shocked that there would be this kind of display on the floor of the U.S. Senate. Certainly, Dr. Foster has made it very clear, as Senator MIKULSKI explained to all of us, that he does not support third trimester abortions, that he does not support abortions for sex selection, nor does he support illegal abortions.

I think it is really outrageous that guilt by association occurs on the floor of the Senate. I think the American people deserve a debate with dignity. I think Dr. Foster deserves a debate with dignity, and I hope that all of us can remember that.

Again, I remind you, Dr. Foster's nomination is in front of us because he is a man with a tremendous history of service—community service—delivering more than 10,000 babies, and I think that is what we should be debating today.

I yield my colleague from New Jersey 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator and urge her to continue her quest to see that fairness is finally delivered on this floor. I am astounded by what we have just seen. I assume that the pictures that we saw reflect a woman's decision, that she chose to have that abortion. You can make it look as ugly as you want. But the fact is that it is a medical procedure, and this woman chose to have it. This same Senator—a distinguished Senator and a friend of mine—from New Hampshire voted the other day and led the fight to take helmets off motorcycle riders. They could be laying all over the road, and they wind up in a hospital as paraplegics and quadriplegics, and we pay for it. That is OK. But to permit a woman who, under the law, has a right to make a choice, no, no.

Here we are watching a small minority deciding how the behavior of the majority ought to perform. This is an outrage. Yes, this is about abortion because the other side made it about abortion, instead of taking this man with superb credentials, who did what he had to under his oath as a physician and under his compassion as a human being. He obeyed the law and delivered excellent service. Over 10,000 babies delivered. The Senator from New Hampshire wants to pick out a procedure that was required and make that the subject of this discussion.

No, it is a narrow minority who says to the women across this country that you have no right to choose, even though the law says so. In his very statement, he said that. He said if we had a Surgeon General who spoke against it, then it would be OK with this Senator and those whom he represents—Senator GRAMM and the others.

This is an outrage. What we are witnessing here is the truth about this issue. This has nothing to do with Dr. Foster. This has to do with politics, raw politics. I appeal to the people across this country, if you think you are being dealt with fairly, just look at what took place: Decrying a law that is on the books and a physician for doing his duty. We ought to get a couple of friends here with enough courage to stand up and say we are not going to take it anymore and we are going to vote on behalf of the women in this country.

Mrs. MURRAY. Mr. President, I yield my colleague from Illinois 4 minutes.

Ms. MOSELEY-BRAUN. Mr. President, everybody is talking about what the issue is here. I think there are a number of American people who think that the only real issue is fairness. It is whether or not a minority of this body will stop this nomination, using the time-honored trick of the filibuster in order to enforce an extreme agenda on the President of the United States through his nominee. It is just that simple.

The extreme agenda, I think, is pretty evident. I have never seen anything as horrific, as horrendous, as awful, as ugly and graphic as the posters and the doll figure I saw on the floor a few minutes ago. It is outrageous to bring something like that on the floor of the U.S. Senate to make whatever point. Whether you are for or against choice, to bring that kind of graphic depiction of ugliness on this floor, I think, only serves the purpose of inflaming people around an issue that really inflames and divides the American people, and that does go to the heart of the opposition's extreme agenda here.

People who say the Supreme Court was wrong in terms of Roe versus Wade are finding 9,000 ways to overturn it in subtle ways. People who do not believe that a woman has a right to choose—by the way, everybody is entitled to their own view on that issue. American people are and will be divided. That is a profoundly divisive issue in our body politic. But the question is: Why would that profoundly divisive issue be applied to Dr. Foster's nomination?

Here is a man who is not an abortionist. He is a women's doctor. He has delivered tens of thousands of babies, and he has made the point that he supports the laws in terms of a woman's right to choose, but that is not his practice and never has been. Dr. Foster has played by the rules, has promoted women's health over the years, and he has a stellar background.

I join my colleague from New Jersey in saying that this really is a nomination now that is wrapped up in games and politics. Indeed, I will go as far as to say that Dr. Foster is a political hostage to extremism. That is the issue here—whether or not we are going to allow that extremism to derail this

nomination through use of the filibuster, or whether we are going to allow this man to have a majority vote of this body. Fifty-seven Members of this body, yesterday, voted to allow the nomination to come to a vote. That is more than half. That is more than a majority. What it is not is enough to overcome the time-honored trick of the filibuster. It is continuing that filibuster that is at the heart of the vote that will take place this afternoon.

I urge my colleagues to strike a blow for fairness and say to the American people that we are prepared to allow a majority to rule in the U.S. Senate, like it does on other matters—the budget, the appropriations, and all the other things we do. Let us say we are going to allow the majority vote to prevail regarding this nomination for the President's administration.

Dr. Foster was nominated by the President over 136 days ago. We have been sitting here in the U.S. Senate with all of the public issues we have before us—violence and crime, the issues in the communities, AIDS, you can go down the list—and they have not been attended to. Why? Because of the politics of abortion and politics of the Presidential campaign. I say let us free Dr. Foster and have his nomination vote take place today.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding. We are coming down to the final moments of the debate. We will have our final vote here in a few minutes.

I would like simply to review the key issues. First of all, let me address the issue of the cloture vote. To listen to our colleagues, it would sound as if we never vote on cloture in the U.S. Senate. Yet, hardly a week goes by that we do not have a cloture vote. It is part of the fabric of American democracy. It was part of the process making the Senate the deliberative body of Congress that George Washington described to Thomas Jefferson when Jefferson came back from France. Thomas Jefferson had been the American Minister to France while the Constitutional Convention was occurring.

Our colleagues talk about cloture votes and filibuster. Yet, since 1968, 24 times we have had cloture votes on nominations, and nearly every one of them occurring when we had Democratically controlled Congresses.

The way our system works is, if there is a determined minority, that minority has the right to speak in the U.S. Senate. There is, today, a determined minority. And to accommodate the Senate, an agreement was worked out so that the proponents of this nomination had not one vote, but two. That was agreed to by unanimous consent. Any Member of the Senate could have objected. No one objected. So this is a process that we chose and that every Member agreed to. This is a process that we all understand, and it is a process called ''democracy.'' It has served us well in the past. It will serve us well today when we reject this nomination.

I remind my colleagues that there was a Democratic effort to stop the confirmation of Chief Justice Rehnquist of the Supreme Court. That nomination went to a cloture vote. In that case, cloture was invoked. But the point was somebody on the Democratic side of the aisle felt so strongly about that nomination to one of the three most important offices in the land—the head of an entire branch of American Government—that they exercised their right. Many people did not like it, but that is how our system works. In that case, the process worked. We invoked cloture. Judge Rehnquist was confirmed. And in this case it is going to work as well. We are not going to invoke cloture, and Dr. Foster is not going to be confirmed.

Now, let me address the issue of Dr. Foster's credentials, and let me make it very clear that there is absolutely nothing in this debate that has anything to do with anything other than his qualifications to hold this office. There are two principal qualifications that our colleagues go on and on about with Dr. Foster. No. 1, he was the department head at a medical school in America. That is true. It is also true that the department he headed lost its accreditation while he was head of that department. Was it his fault? Were there extenuating circumstances? Were there other factors involved? Certainly there were. There always are. But the bottom line is that he served as the department head of a department that lost its accreditation.

The second argument given is that he established a program with a wonderful name, ''I Have a Future.'' That program's stated goal was to reduce teen pregnancy. Our colleagues make a big point that this program was given a Point of Light Award. It was given that award because of its objective, a noble and great objective, and one that we need to promote all over America. But the bottom line is there were two objective assessments of that program, and both of them were made after it was given this award. Both evaluations concluded exactly the same thing: This program did not in any statistically significant way reduce teen pregnancy among those who participated in the program.

I said it yesterday. I will say it again today. And every Member of the Senate knows it. If we had set up a distinguished panel of physicians to go out and look at qualifications of physicians in America and to come up with a list of 1,000 physicians who were eminently qualified to hold the position as America's first physician, Surgeon General, Dr. Foster's name would not have been on that list. I do not think anybody here believes that Dr. Foster is qualified to be Surgeon General when considering his two major credentials: One being the head of a department that lost its accreditation; the other being the director of wonderful-sounding program with a noble objective which, according to two objective assessments, proved totally ineffective in promoting those objectives.

Because it has been the focal point of the debate, as it should be, I am not going to get into again the problem of Dr. Foster's credibility. Maybe it was his fault, maybe it was the White House's fault, maybe it is failing memory, maybe it is simply a lack of understanding of the political process and how it works. But the bottom line is, on virtually every issue that has been raised, there has been a problem of credibility.

Finally, on the whole issue of abortion. I did not see the presentation that my dear colleague, Senator SMITH, made about partial-birth abortions. Maybe some people were offended by the presentation. But I am offended that this is happening in America. I think people do have different views on abortion, and I respect the opinion of people who disagree with me.

But I think it is an extreme view when you take the view which Dr. Foster takes, in opposition to parental consent in cases involving abortion and minors. Polls show that is an extreme view; 80 percent of the people in America think that parents ought to be notified when abortion is going to be performed on a minor. I think it is an extreme view when a child is in the process of being born, and its life is extinguished. I think it is an extreme view that when a lady is being taken down the hallway toward the delivery room, that it is perfectly acceptable in America to make a left turn to perform an abortion. The American people, by a margin of over 70 percent, think that is an extreme view.

Why filibuster? Why force a 60-percent vote? The answer to that is very, very simple. A lot of us felt very strongly about Joycelyn Elders. When I read the things that she had said about the Roman Catholic Church, when I read the her comments which made her sound more potentially successful as a radio talk show host than a Surgeon General of the United States, when I looked at how extreme her views were, I did not think she ought to have that job.

But this was the President's first nomination for this position, and there was no way of knowing in advance exactly what she would be like. I voted no; I opposed her nomination; I fought it; I wanted to defeat it, but I did not use the power that the minority has in the Senate, and that is the power to debate. Having made that mistake on Joycelyn Elders, I and others were determined that we were not going to make that mistake again.

I believe Dr. Foster is not qualified for this position. I believe that there are real credibility problems concerning the facts that have been presented to the country and the Congress. And

finally, I believe that his views are radical and outside the mainstream of American thinking.

Yesterday, I quoted our President four times from his campaign, talking about the values of our people, talking about family values, talking about traditional values. I do not believe that Dr. Foster's views match the President's 1992 campaign rhetoric.

I think one thing we have a right to expect Presidents to do once they are elected is to put forth nominees whose views are consistent with their campaign rhetoric. We have a right to expect that those campaign views will be reflected in their nominees. Do not get me wrong. When people voted for Bill Clinton, they voted for more spending, more taxes, more regulation, more Government, and for the appointment of liberals. If they did not know it, they should have known it. That is what democracy is about.

But they did not vote for the radicals that this President has appointed. This is an appointment where the views of this candidate are outside the mainstream of American thinking, and I believe we are making the right decision in saying no.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair and I thank the distinguished manager.

I do not know whether this debate is more about politics or more about abortion or exactly what it is about. But I do not truly believe this debate is about Dr. Henry Foster. There are two Henry Fosters: The one that is depicted and portrayed by his opposition; and there is the real Henry Foster, a man of deep compassion and certainly a man of great ability.

There have been a lot of articles written, a lot of stories on TV and radio and in newspapers, about who is winning in this Foster fight; whether it is one of the candidates for the Republican nomination for President or the other candidate.

Mr. President, I can say the loser in this fight, if we do not get 60 votes today, will be the American people. It will be the American people who are going to be the great loser if we do not confirm this man.

He has stated time and time and time again his position on abortion is very, very simple: That they should be safe, that they should be legal, and that they should be rare. That is his position on abortion.

I urge my colleagues to vote for this splendid man as our next Surgeon General of the United States.

Mr. President, it gives me great pleasure to support the nomination of Henry W. Foster Jr., M.D. to one of the most important health care posts in our Government, Surgeon General. As you know, the Surgeon General is the national spokesperson to promote good health activities and to alert the nation regarding things that are harmful or potentially harmful. In May, Dr. Foster convinced the Labor and Human Resources Committee that he was the right man for the job.

Today, I am here to explain to my colleagues why I know Dr. Foster is the right person for that job. To reiterate, soon after I set out to learn more about our nominee for Surgeon General, I realized that there are actually two Dr. Henry Fosters. One is the Dr. Foster created by inside-the-beltway groups using diversionary tactics to derail the nomination of a respected physician. The other is the Dr. Foster who grew up in Pine Bluff, AR, attended University of Arkansas as the only African-American in his class, served his country as a medical officer in the Air Force, and set up a practice in Tennessee where he trained hundreds of the nation's finest medical practitioners.

Mr. President, I am here to tell you that I am convinced that this second Dr. Foster is the real Dr. Foster. For those who doubt this and want to see something tangible, I urge you to visit Nashville to see his accomplishments, such as the doctors he trained, the day care centers he created, and the individuals, young and old, he has delivered into this world over his many years of practice.

I would be remiss if I did not mention one of Dr. Foster's greatest accomplishments, his I Have a Future Program, a pioneering effort to reduce the number of teen pregnancies by improving teens' self-esteem. As you may know, President George Bush named Dr. Foster's program as one of American's Thousand Points of Light in 1991. President Bush's own Secretary of HHS, Dr. Louis Sullivan, has lauded Dr. Foster's nomination.

Let me also talk about what Dr. Foster's peers say about him. The American Medical Association, the American College of Obstetricians and Gynecologists, the National Medical Association, the American College of Preventive Medicine, are just some of the professional organizations that have come out in support of Dr. Foster.

Mr. President, in addition to letters from his peers, I have also gotten letters from other groups. One organization, the Council for Health and Human Service Ministries of the United Church of Christ wrote:

> We are people of faith, committed to promoting and maintaining optimum health of all people. We believe that the professional credentials and experiences of Dr. Foster are impressive and provide sufficient evidence of his ability to be the nation's spokesperson on matter of public health policies and practices.

In sum, Mr. President, let me make these points about Dr. Foster:

He is a practicing physician, a scholar and academic administrator of national stature, and a community leader.

Dr. Foster is a skilled communicator who emphasizes consensus-building over confrontation.

Dr. Foster has bipartisan support.

Dr. Foster is one of the nation's leading experts on, and advocates for, maternal and child health, and has developed and directed teen pregnancy and drug-abuse prevention programs that bolster self-esteem and encourage personal responsibility.

Mr. President, let us look at the Dr. Foster from Tennessee, the man who has done so much for people who others have ignored. Let us follow the Labor and Human Resource Committee's lead and confirm Dr. Foster's nomination.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 2 minutes.

Mrs. BOXER. Mr. President, I was not going to take the floor back, but I have to respond to some of the things done and said on this floor. I feel very strongly that it is my responsibility as a U.S. Senator from the largest State in the Union to the say a couple of things here.

No. 1, to my colleague from Texas, people in America want a fair President. This is not fair. To deny this man a vote is not fair—period. And then to keep bringing up Joycelyn Elders. I do not say about my colleague that he is like Richard Nixon or he is like Herbert Hoover. If I agree with him, I agree with him because it is him. I do not say he is like someone else. So let us cut it out. If you want to fight a guy, fight it on fair terms.

My colleague from New Hampshire shows us pictures meant to divide this country. He shows us pictures that should never be shown in front of the Senate pages who sit here. They should have been spared that. You want to outlaw abortion? You want to make it a crime? You want to put women in jail for having them? You want to put doctors in jail? Bring the legislation to the floor. I will debate with you toe to toe—toe to toe. And I will win that battle because, thank you very much, the women of America do not want Senators telling them how to handle their private lives.

I am always amazed that the very people who say get Government out of our lives want to put Government in the bedrooms of the women and men of this country.

You are out of the mainstream, and you are stopping this nomination with a minority vote here. It is wrong to do that.

I want to end my remarks with a positive picture—and I wish I had it—of 10,000 little babies.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. May I have 30 additional seconds?

Mrs. KASSEBAUM. Mr. President, I yield the additional time.

Mrs. BOXER. I thank my colleague.

If I had only known we were going to do this picture situation, I would have tried to get the picture of thousands of new babies—10,000 brought into the world by this physician who went into the Deep South, where no one would go, who turned around the infant mortality rate. Did you ever see a picture of a baby who was born without prenatal care? I will tell you about it. I happen to have one. I have two who were born premature with prenatal care. But I want to tell you, it is not a pretty picture. They have tubes up their noses. They suffer. They struggle. They get high bilirubin. They turn yellow. And I will never forget, before my baby was born prematurely, I remembered then President Kennedy had a baby that was born prematurely. It is not a pretty sight.

He turned it around. He showed those pictures. Dr. Foster never performed a late-term abortion that was not to save the life of the mother. That is on the record. It is an unfair thing to do to this man.

I urge my colleagues, in light of those pictures, to change your vote, show that you have a conscience, and stand up for what is right and just.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I yield 15 minutes to the Senator from Ohio.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 15 minutes.

Mr. DEWINE. Mr. President, I rise today to discuss the nomination of Dr. Henry Foster to be Surgeon General of the United States.

The role of the Surgeon General is to be a public advocate—to persuade Americans to change their private behavior and lead healthier lives. That is why the credibility of the Surgeon General—his or her ability to communicate with the American people—is vital to his success in that job. The Surgeon General has to be able to connect with the general public in a truly personal way.

To do this, the Surgeon General has to be sensitive to people's real concerns. He cannot be someone who appears to shrug off important issues.

That is why Dr. Foster's record on the very important issue of sterilizations is so troubling.

What are the facts? The facts are that in the early 1970's, it was becoming increasingly clear, to a broad public, to the medical profession, that mentally retarded individuals needed special protections—to prevent abuses of the practice of sterilization.

In 1970, the American College of Obstetricians and Gynecologists issued the following statement of policy:

> If an operation to accomplish sterilization is recommended by the physician for medical indications, the recorded opinion of a knowledgeable consultant should be obtained.

Four years later, in 1974, Dr. Foster wrote an article in which he said—and I quote: ''Recently, I have begun to use hysterectomy in patients with severe mental retardation.''

The operative words are ''recently'' and ''begun.''

''I have recently begun''.

In a written inquiry, I asked Dr. Foster whether he had obtained the recorded opinion of a consultant prior to performing those hysterectomies. His answer was—and I quote—''I do not believe I obtained the recorded opinion of a consultant.''

But he adds:

> I believed that * * * the manner in which they were performed was fully consistent with prevailing rules governing informed consent.

Dr. Foster is now—and was then—a member of the American College of Obstetricians and Gynecologists. But in response to my question, Dr. Foster said he believes that the policies of the American College of Obstetricians and Gynecologists simply are not binding.

I have a problem with that. I think that the position of the American College of Obstetricians and Gynecologists—their insistence on a recorded opinion from a consultant—should not be dismissed so cavalierly. Indeed, the whole trend of history was moving toward protecting the rights of the mentally retarded, and away from Dr. Foster's position, at the time he wrote that article.

Let me add a few more comments to put it into really historic context.

In 1972, a Federal district court—in the case of Wyatt versus Stickney—had placed Alabama's institutions for the mentally ill and mentally retarded under sweeping and detailed court orders forbidding experimental research and certain kinds of treatment without express and informed consent.

In June 1973, two girls—ages 12 and 14—were surgically sterilized in Montgomery, AL.

Without going into all the details, it was an absolutely shocking set of facts.

When the sterilizations came to light, there was immediate public reaction—and a move toward nationwide reform. By the end of that same month—June 1973—there was already a lawsuit filed. In the following month—July 1973—Senator EDWARD KENNEDY held hearings on this controversy. The Secretary of HEW announced that new regulations on the use of Federal funds for sterilizations would be published within weeks.

And the regulations were published. They sought to protect the rights of all persons—including the mentally retarded—with respect to federally funded sterilizations.

These regulations never took effect, because in 1974 a Federal district court found—in the case of Relf versus Weinberger—that HEW had no authority to perform any nonconsensual—that is what we are talking about, nonconsensual—sterilizations whatsoever.

On January 8, 1974—the very beginning of 1974—Federal District Judge Frank M. Johnson, Jr., issued an order that specified the procedures that would have to be followed in cases of the sterilization of institutionalized mentally handicapped individuals. Judge Johnson required that any sterilization would have to be approved by the director of the institution, a review committee, and the court.

That was January 1974.

That tells us a little bit about what the climate was.

That was the moral and legal climate in which Dr. Foster was justifying and defending the practice of sterilizing mentally handicapped women.

In the summer of that same year—months after the decision by Judge Frank Johnson, and a year after the Kennedy hearings—Dr. Foster made his statement that he had ''recently * * * begun to use hysterectomy in patients with severe mental retardation.''

The physician—even more than the average citizen—owes what our Declaration of Independence calls ''a decent respect to the opinions of mankind.'' That is way Dr. Foster's responses on the issue of sterilization gives cause to me for grave concern. They lead one to believe that Dr. Foster can be tone deaf to some very important issues.

It is one thing to have a controversial position on some issue. It is something else entirely when someone chooses to remain totally indifferent to the moral controversies of his time.

If you are going to be Surgeon General, you have to be able to reach people. You have to be sensitive to them. You have to care about what is going in their hearts and their fundamental moral sensibilities.

Dr. Foster, as I have said on several different occasions, Mr. President, is a good man. He is a caring person. He is a loving human being. That is not the issue. I believe, based upon the hearings, on my own conversations with him, on his responses to my written questions, that Dr. Foster simply cannot adequately perform this job; that he cannot use the job of the Surgeon General of the United States to its fullest capability; that he cannot use it as the bully pulpit that it should be used as; that he cannot maximize the great potential that office has.

That is why I will again today vote no on his nomination.

I yield the floor.

Mr. BRADLEY. Mr. President, I rise reluctantly today to join the debate on Dr. Henry Foster's nomination as Surgeon General. I am reluctant because this has gone on too long; there should not be such fierce opposition to a candidate so clearly qualified as Dr. Foster. However, the debate continues, and I feel it is important to point out his qualifications, and thereby separate the germane issues from distractions, wordplay, and rhetoric.

The facts of Dr. Foster's career speak for themselves. His work at Meharry Medical College, his service for a long list of organizations, including the March of Dimes Foundation and the

American Cancer Society, are evidence of his dedication and professionalism. His I Have a Future Program has helped young men and women leave housing projects and embark on field trips, jobs, and college educations. The program was aptly chosen as No. 404 of the Thousand Points of Light. Who can deny that teaching job skills, self-esteem, communication skills, and counseling for at-risk youths is a light in these troubled times? Who can question the values of a man who builds up a community, provides support for teenagers, and encourages family participation in crucial life decisions?

Dr. Foster was there for the teenagers of Nashville when their decisions were anything but simple. Violence, pregnancy, drugs, and poverty are problems that faced these youths, and which face us here today. We have a chance to provide America with a Surgeon General who has said that as the People's Doctor, he would try to ''replace a culture of hopelessness with one that gives young people a clear pathway to healthy futures.'' We can debate endlessly, lamenting the lack of values in America and condemning violence, but when we prevent Dr. Foster's nomination, we prevent him from continuing and expanding his fight against today's problems.

Dr. Foster has used his position as a medical doctor and an educator to encourage abstinence and to give teenagers hope for the future, so that they will take the responsible path. He has used his knowledge and his expertise to bring adolescent health services to places where they are desperately needed. He has performed a function beyond the call of a traditional physician. In his own words, his work ''involves the entire families and the total social matrix of the surrounding community.''

In holding back this nomination, we hold back possible solutions to problems which face all of us, problems which will not be solved without work like Dr. Foster's, problems which will not go away, and problems which will not wait for political delays.

We must listen to the facts in this case. By now, we are all familiar with Dr. Foster's outstanding achievements as a doctor, an educator, a scholar, and a community leader. We know that Dr. Foster has the support of the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, the Association of American Medical Colleges, and hundreds of other respected institutions and individuals. We cannot ignore the letters which pour in from informed organizations like these, all supporting Dr. Foster, and all condemning the politicization of this issue. We should look at Dr. Foster's numerous achievements, instead of creating a smokescreen of accusations. We should confirm Dr. Foster, and allow him to continue his hard work for at-risk teenagers, for families, for each and every one of us in this Chamber, and for this country.

Mr. FRIST. Mr. President, I ask unanimous consent that the following statement of support for Dr. Henry Foster's nomination as Surgeon General be printed in the CONGRESSIONAL RECORD. The statement was presented on May 26, 1995, at the Labor and Human Resources Committee vote on the nomination, and fully explains my reasons for supporting this nominee.

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

STATEMENT BY SENATOR BILL FRIST ON DR. HENRY W. FOSTER, JR.—MAY 26, 1995

Last November, the people of Tennessee elected me to make difficult decisions. And this has been a decision I've struggled with. I know that thoughtful people honestly and fundamentally differ on whether Hank Foster should be Surgeon General.

What makes my statement different from those you have heard today? I know Hank Foster. I know him as a fellow Tennessean. I know him as a fellow physician and colleague, who worked 4 miles from my office. We are both members of the Nashville Academy of Medicine, on whose Ethics Board he has served. And I know him as a fellow Nashvillian, who has done what few physicians do—step out of the clinic into their community to address the really tough problems in our society.

Since February 2, the day the President announced his choice, I've listened carefully to every conceivable argument for and against the nominee. And over the past 3 months, I've done my very best to remain neutral—neither to blindly endorse Hank Foster because he is a fellow Nashvillian, nor to condemn him because of allegations drawn from the attics of his past. I have waited until final testimony was submitted just last Friday so that I could thoughtfully, and carefully, consider every aspect, every ramification, of his nomination. Several days ago, I again met with Hank Foster—one-on-one, face-to-face—to specifically and directly ask him about his plans as Surgeon General.

I asked him the tough questions. Would he be like his predecessor, Dr. Elders? Would he allow himself to be used as a political tool for an out-of-step President, who time and time again has promoted radical agendas? Or would he represent mainstream America and family values?

Dr. Foster told me, without hesitation, that his number one goal was to reduce teen pregnancy—a problem that we as a people have done a miserable job addressing. It's a problem that literally threatens the very fabric of America. His approach? He looked me straight in the eye, and said ''number one, build self-esteem; number two, promote abstinence; and number three, instill family values.''

He told me that the other main issues on his agenda would include screening for breast cancer and prostatic cancer, addressing the AIDS epidemic, and teenage smoking. Dr. Foster stressed to me that he places primary emphasis on family, that he understands the importance of leading by building a consensus, and that he understands that his agenda as Surgeon General must appeal to, and be embraced by, mainstream America.

Madam Chairman, many have told me that this nomination is no longer about Hank Foster, the man. They say it's about the inept way in which the Administration has handled his nomination. They say it's about the tardy and roundabout manner in which information has been provided to this Committee and to the American people. They say it's about a radical social agenda that is beyond the bounds of mainstream America and traditional values.

But, I don't buy it. I guess as a newcomer to this body, I see it all very differently. I believe it is about Hank Foster, the man—the man who had delivered thousands of babies into this world; the man who has committed his life not to making money, not to promoting himself, but to serving others' needs; the man who has cared for and nursed to health thousands of women; the man who in addition to the practice of medicine, has courageously and unselfishly stepped out into his community to give others a chance to step out of a world of poverty; and the man who 4 days ago, looked me in the eye and described a fundamental commitment to the principles of self-esteem, personal responsibility, and family values.

As I stated at the Committee hearings, it should not be our purpose to search for every possible mistake or imperfection in Hank Foster's life. The question before us is a much more narrow one: does this man have the commitment, the intelligence, the training, the honesty, and the integrity to be the chief spokesman for Americans on matters concerning public health? These are the issues that I've considered, and I'm satisfied with what I've seen and heard.

Having known Hank Foster as a fellow Tennessean, having heard his testimony, having had the opportunity to talk to him extensively face-to-face, and having considered every aspect of his nomination very carefully, I believe his nomination should be referred out of Committee favorably and brought before the U.S. Senate. And I also believe we should move forward with this process. We've got a lot of important business to attend to and the American people want this Congress to press on.

Madam Chairman, I think it is also important to mention, as I did in the Committee hearing, my belief that this confirmation process is not the place or the time to revisit our national policy on abortion. Americans of conscience will remain deeply divided over this issue regardless of who is appointed Surgeon General. It's important to remember that the office of Surgeon General does not set social policy, nor convey with it the right to vote on any legislation—whether affecting abortion or otherwise. When this body confirmed Dr. C. Everett Koop as Surgeon General, a staunch opponent of abortion, that confirmation did not outlaw abortion. If this body confirms Hank Foster, that confirmation won't condone abortion.

No doubt, the unfortunate events that immediately followed Hank Foster's nomination cast a shadow on his viability to be Surgeon General. Conflicting information raised questions about his credibility. I, too, was angered that the Clinton Administration had badly mishandled yet another nomination by failing to adequately prepare Dr. Foster—a physician who had never had to face such aggressive public scrutiny.

Questions arose about Dr. Foster's ability as an administrator, his involvement in 4 hysterectomies performed 25 years ago, and his knowledge of a study on black men conducted over a 40 year period in rural Alabama. These issues concerned many, and each and every one concerned me. But I believe that Hank Foster's testimony, evidence submitted to the Committee, and my own one-on-one interviews with him, put to rest those concerns.

Dr. Foster, I feel, came through the hearing process with his credibility and integrity intact, and with is qualifications to be Surgeon General apparent.

In the end, when people ask me why I support Hank Foster's nomination, I'll tell them simply because he's qualified to carry out the duties of Surgeon General. I am confident that he will perform his job well.

Finally, Madame Chairman, I ask my colleagues to consider this nomination, not based on politics, but rather on qualifications and ability. In the past, the Democrats have so often brought politics into the equation—we all remember the nominations of John Tower, Robert Bork and Clarence Thomas. I wasn't here, but as a private citizen, I recall the anger I felt and the disappointment in the process. Let us not make the same mistakes. The American people are tired of politics as usual—that was the message of November 8.

For that reason, I urge all of my colleagues to view this candidate away from the distractions and the hype of political expediency, and without regard to who nominated him. Rather, look at his accomplishments, his qualifications, his statements, his goals, and the testimonials of other who know him.

And then—based on serious reflection—make your decisions.

I've done that, and I choose to support Dr. Henry Foster.

Mr. CRAIG. Mr. President, the concerns that have led me to oppose the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States are not trivial. They are also not intended as a criticism of the nominee personally. He is a fine individual and deserves our respect.

However, in deciding whether to support a nominee, character cannot be the only consideration. We must also examine the nominee's ability to serve the American people in the office to which he or she was nominated.

It is important to note that my decision to oppose the nomination of Dr. Henry W. Foster was made after a great deal of thought and consideration. I do not take lightly the responsibility of the Senate in confirming Presidential nominees. Nor do I take lightly the right of the President to nominate individuals who share his philosophy. My own philosophy, opinions or views have run contradictory to most of the nominees presented by this administration. However, I have opposed very few of those nominees.

Mr. President, as I have noted, I have concerns about Dr. Foster. I do not agree with him on a number of issues, including abortion. However my opposition on his confirmation is not based on differing opinions. I am opposing Dr. Foster's nomination because the many problems surrounding his nomination are issues that will be divisive.

An individual can have many fine qualities and excellent experience and yet not be qualified to serve as a public official in the position of Surgeon General. That position, sometimes referred to as ''America's Family Doctor,'' requires someone who also has the ability to bring groups together to work toward resolving the health problems of this Nation. To his credit, Dr. Foster has some fine qualities and experience. I do not dispute that fact. However, the controversy surrounding his nomination, the disclosure—or lack of disclosure—of the number of abortions he has performed, as well as the questions surrounding his knowledge of the Tuskegee syphilis study lessen his ability to bring Americans together on the multitude of health issues our Nation faces.

Mr. President, the role of Surgeon General requires the ability to bring people together, not to be divisive. The controversy surrounding Dr. Foster's nomination has diminished his ability to play the unifier.

In addition, I would add that I have received numerous letters from Idahoans expressing concerns and opposition to the confirmation of Dr. Foster.

Therefore, I have decided to vote ''no'' on the confirmation of Dr. Henry Foster for the office of Surgeon General for the United States.

Mr. KOHL. Mr. President, some today have presented Dr. Foster's credentials and discussed his integrity. Others simply do not support the candidate. We have heard the arguments. We should be ready to vote—to go on record, yes or no, whether we approve of this nominee.

Unfortunately, Mr. President, some in this body do not want a vote on the nomination of Dr. Henry Foster. The debate we are now engaged in is not about the qualifications of the candidate for the job of Surgeon General. This is about a political game.

Machiavelli would enjoy how the Nation's business is handled in Washington, D.C. today. Bipartisanship is a word easily tossed around, but seldom practiced. The bottom line is how to prevail in the next election, not how to solve this Nation's problems.

Do we really think the best way to find qualified candidates to serve the United States Government is to pick apart their careers and their characters, groping for something that will justify a political end? Is that what faces all those who wish to serve their country?

Ever since the President announced Dr. Foster as the Surgeon General nominee, the Nation has witnessed a non-stop exercise in abusive politics.

For months Dr. Foster was attacked by those opposed to his profession and who questioned his integrity. Based on allegations by ideological factions and media scrutiny, some called for the nomination to be pulled before allowing Dr. Foster a chance to respond. That is not how this body should consider Presidential nominations. Nominations should proceed in a fair manner, allowing candidates to fully present their story.

We should debate those whose views differ from our own. That is called Democracy. But I do not believe every event in a person's life should be held under a national microscope—especially when the person in question has no chance to respond. That is called persecution.

Fortunately, Dr. Foster finally received a fair hearing in the Labor and Human Resources Committee. He responded well to questions raised about his background and proved to be an honest, caring and dedicated individual.

After all that Dr. Foster and his family has endured in the past several months, does he not deserve a vote?

Dr. Foster has committed his life to helping others and promoting public health. He is well respected by his professional peers and those whose lives he has touched through community service. In short, this candidate is qualified to serve as Surgeon General and deserves a final decision.

The Labor Committee approved of Dr. Foster and passed his nomination. It is now time for the full Senate to exercise its responsibility. I urge my colleagues to end this sad political spectacle and vote on the nomination of Dr. Henry Foster.

Mr. HATFIELD. Mr. President, yesterday I voted against limiting debate on the nomination of Dr. Henry Foster as Surgeon General of the United States. It is my intention to do so again today.

I will vote against cloture today because I am disappointed by the handling of Dr. Foster's nomination and because I do not believe debate should be limited before it begins. This is a misuse of the cloture motion. Cloture should be a tool of last resort rather than a tactic employed as soon as an issue hits the Senate floor.

In addition, I believe it is improper to raise a single issue and use it as the litmus test for the nomination of a Surgeon General. The President did that yesterday by stating that this vote was really a vote about abortion. I am deeply disappointed that the debate has come to this.

The Surgeon General serves an important role as the national spokesperson on matters of public health. Over the years we have seen individuals serving in their capacity as Surgeon General make important statements on the health effects of smoking, the spread of AIDS, and teenage pregnancy. This person often becomes a lightening rod for controversy.

In recent years, a number of individuals who have been nominated as Surgeon General have been controversial figures. Their nominations did not pass the Senate without a full debate. Dr. Foster's nomination is controversial. Much of the initial information provided to the Senate was misleading or inadequate. In addition, there are a number of issues that have been raised relating to Dr. Foster's qualifications to serve as Surgeon General and I believe that both sides should have an opportunity to fully debate these issues.

Mr. BINGAMAN. Mr. President, I rise to express my strong support for the confirmation of Dr. Henry Foster to be Surgeon General of the Public Health Service. In my view, it is time that the Senate put personal agendas and Presidential primary politics aside.

It is time we let Dr. Foster get on with the important job he has been preparing for throughout his professional

career: the job of chief public health advocate for our country.

Based on the public hearings held by the Labor and Human Resources Committee and the very detailed questioning those hearings involved, I have come to the conclusion that Dr. Foster is imminently qualified to serve as Surgeon General.

Just as Presidential politics should not define when and under what conditions the Senate conducts its business, neither should we in the Senate attempt to define, based on ideology alone, the boundaries of a Surgeon General's professional experiences.

We in the Senate need to focus on the real world we live in, not the world we wish we lived in. The reality is that our Nation has deplorably high rates of teen pregnancy, infant mortality, and poverty. Too many of our children are abused, troubled, hungry, and hopeless. Childhood violence and death due to suicide are increasing at alarming rates. Incidence of AIDS and other sexually transmitted diseases are increasing in every population in our country.

Statistics from my home State of New Mexico illustrate these facts in graphic detail:

We have the third worst rate of births to unmarried teens in the nation: From 1985 to 1992, the number of births to unmarried teens grew from 41.6 to 60.1 births per 1,000 females age 15 to 19. That is an increase of 44 percent over 7 years.

In 1991, 18,234 cases of child abuse were reported in New Mexico, an increase of 21.4 percent from 1990.

More than 10 percent of New Mexico's children live in extreme poverty, with family incomes below 50 percent of the poverty level; 27.2 percent of our children live in poverty, compared to the national average of less than 20 percent.

Nearly 40 percent—4 out of 10—of our children live in families with incomes 150 percent of the poverty level or less.

Our teen violent death rate, though declining, was still hovering at more than 70 deaths per 100,000 teens in 1992.

I could go on, but I believe I have made my point.

The real world is tough. The problems we face are tremendous. It will take a person who has faced reality and dealt with the problems he has seen with compassion and commitment to find solutions to the enormous public health challenges confronting our nation.

My impression is that Dr. Foster is such a person. His background as a practicing physician, a scholar, and academic administrator, and an advocate for poor children, combined with his proven ability to lead are evidence of his strength and compassion.

Dr. Foster has proven his commitment to public service and public health. He deserves to be judged by the Senate on his merits as a physician and an educator. And he deserves the opportunity to serve his country as the next Surgeon General.

Mr. FEINGOLD. Mr. President, I would like to express my support for the confirmation of Henry Foster as Surgeon General of the United States.

In making my decision to support Dr. Foster, I reflected upon many of the comments on this nomination that I have received from constituents in my home State of Wisconsin. Most Wisconsinites wish that fewer women had abortions, hope that fewer young women got pregnant unintendedly, and want sufficient access to comprehensive health care services for women and children.

Dr. Foster's capabilities and accomplishments in addressing women's and community health are noteworthy. He is a respected medical educator and president of Meharry Medical School. He is the past president of the Association of Professors of Gynecology and Obstetrics, and has been a leader in addressing teenage pregnancy issues in Nashville, TN. Lastly, by all accounts, he is a sincere, compassionate, and respected gynecologist who has delivered thousands of babies and seeks quality health care for women and their families.

All of us heard numerous opinions on the nomination of Dr. Foster. I have received letters from practitioners, leading medical education departments, and professional associations, and have heard nothing from the medical community which would impeach Dr. Foster's skills, abilities, and integrity. For example, when President Clinton nominated Dr. Foster, Dr. Douglas Laube, chair of obstetrics and gynecology at the University of Wisconsin-Madison wrote the President in support of that decision, and sent me a copy of his letter. Dr. Laube has personally worked with Dr. Foster for 7 years, serving on a number of national committees designed to develop the education of medical students and resident physicians in the United States. Dr. Laube writes ''Dr. Foster's commitment to medical education nationally and his activities in Tennessee underscore the efforts of an altruistic and well-intentioned person.'' He continues, ''In my personal dealings with him, and in my observations of his dealings with others, I can attest to his integrity, consistency, and dogged attention to detail. More importantly, Dr. Foster is a physician who has spent his entire career attempting to better the life of others while serving as a role model for countless medical students and resident physicians in training.''

With his profession behind him, how, then, has all this controversy over Dr. Foster arisen? In his 37 years as an obstetrician and gynecologist, despite his work to reduce teen pregnancy, sexually transmitted disease and drug abuse, and his role in delivering more than 10,000 babies, Dr. Foster has also performed some 39 abortions.

I do not believe that Dr. Foster should be penalized for acting under the law. The legalization of abortion is an issue for Congress and the courts, ultimately to be decided by the American people, and currently abortion is legal in this country. I have been very concerned that individual Members are using this nomination to express their personal views about abortion. The controversy over the number of abortions Dr. Foster performed, and his recollection of that number, is really a smoke screen designed to attack and demean Dr. Foster and other health care providers who are involved in providing comprehensive women's health care. The underlying message is that one can forget holding public office as a physician if you provide health services to women that includes abortion services.

As a practitioner, the decision to perform abortions is already risky enough. In January of this year, I joined my colleague, the Senator from California [Mrs. BOXER], in condemning violence at reproductive health clinics. I explained then that many of the doctors in my home State of Wisconsin have taken to wearing bullet proof vests to go to clinics to do their work. Are we now saying, that in addition to enduring the threats of stalking, bombings, and shootings, physicians like Dr. Foster must also pay the public political price of ostracism and denouncement of professional credibility?

Despite the controversy surrounding his nomination, Dr. Foster conducted himself in the Labor and Human Resources Committee hearings in a manner which convinces me both of his skill as a communicator and his compassion as a practitioner. I believe he was responsive to questions asked of him, and that he clearly explained his practice record including his tenure and involvement at Meharry in Nashville, at Tuskegee in Alabama, and now on sabbatical at the Association of Academic Health Centers in Washington, DC.

In sum, Mr. President, I have evaluated the entire body of Dr. Foster's record, and I believe him to be well qualified for this position. I also generally believe that the President is entitled to select key members of his administration and due deference should be paid to his choice, where the individual is qualified to serve. I will cast my vote to confirm Dr. Foster, and I admire throughout all the controversy his continued commitment and desire to serve our country in this capacity.

Mr. GLENN. Mr. President, I rise today in support of Dr. Henry Foster for the post of Surgeon General of the U.S. Public Health Service.

Since his nomination several months ago, Dr. Foster's public and private history has been subjected to an exceptional level of public scrutiny, and has become a pawn in an unfair political game. I believe it is a compliment to Dr. Foster's character and achievements, that when given the opportunity to answer his critics, a majority of the Labor and Human Resources Committee voted to forward his nomination to the full Senate.

Mr. President, after reviewing the testimony presented at Dr. Foster's hearing and examining his credentials and accomplishments, I strongly believe that Henry Foster possesses the skills and experience necessary to address the many public health challenges that face our Nation.

During his 38 years as a practicing obstetrician-gynecologist, Dr. Foster has received national recognition as a scholar, academic administrator, and advocate for maternal and child health. He has devoted much of his career to educating medical practitioners at Meharry Medical College—serving as a professor, department chairman, dean of medicine, and president. As a practicing physician and educator, Dr. Foster chose to work with low-income families and children who might not otherwise have access to health care.

Dr. Foster was a pioneer in the movement to introduce the concept of responsibility to at-risk youth. This concept has received a lot of attention in Congress lately. In 1988, Dr. Foster founded the highly successful I Have a Future Program devoted to preventing teen pregnancy and drug abuse. Unlike teen pregnancy prevention efforts which focus on contraception, the I Have a Future Program concentrates on improving self-esteem, cultivating a sense of optimism in the lives of disadvantaged young people, and providing incentives to delay sexual activity and childbearing. ''I Have a Future'' has won wide recognition from many sources, including the American Medical Association, and was designated as one of America's Thousand Points of Light by President Bush in 1991.

Mr. President, I regret that the vote on Dr. Foster's nomination has really come down to a vote on abortion. An individual's beliefs about reproductive choice, or the number of abortions performed during the course of a medical career, should not be a litmus-test for a nominee to the Surgeon General post. Through his delivery and care of over 10,000 children, commitment to research and education, promotion of healthy lifestyles, and efforts to prevent unwanted pregnancies, Dr. Foster has proven his dedication to improving the health of all Americans.

Dr. Foster has an outstanding private, public, and professional record. He is uniquely qualified to lead our Nation as an advocate for healthy and responsible lifestyles. Mr. President, this country has been without a Surgeon General for over 6 months and we now have the opportunity to confirm a man who will bring both experience and enthusiasm to our efforts to combat public health crises such as infant mortality, substance abuse, sexually-transmitted diseases, teen pregnancy, HIV infection, and others. Unfortunately, it appears that the will of a small minority will block a fair and democratic up-or-down vote on Dr. Foster's nomination.

Mr. President, I believe that Dr. Foster deserves more than a politically motivated procedural vote. I strongly urge my colleagues to vote for cloture and support Dr. Foster's nomination to the post of Surgeon General of the United States.

Mr. FAIRCLOTH. Mr. President, much has already been said on the Senate floor about why Dr. Henry Foster is unfit to serve as Surgeon General. Yesterday, I voted against the petition to invoke cloture on debate concerning Dr. Foster's nomination. As far as I am concerned, nothing has happened since yesterday to cause me to change my opinion about Dr. Foster's qualifications to serve as Surgeon General. He was the wrong man for the job yesterday, and he is the wrong man for the job today.

Many have testified as to their personal knowledge that Dr. Foster is a fine man—a nice man. I have no reason to disagree with that assessment. Despite those testimonials, many—myself included—do not believe that we are conducting a congeniality contest to fill the vacancy created by Dr. Elders' forced resignation. In rushing to fill the position, the Clinton administration failed—once again—to do their homework and thoroughly investigate a nominee's qualifications for the job for which he is nominated. The saga of Dr. Foster is yet another in a long string of failed efforts by the White House to send to the Senate nominees who are prepared to fully disclose important information about their background—information essential for the Senate to exercise its constitutional duty to advise and consent on Presidential nominations.

After 2½ years in office, I would think that the White House staff would take more seriously their responsibility toward the Senate and toward administration nominees. Time after time, we in the Senate are subjected to unqualified nominees from the White House gang that can't shoot straight. How much longer will our Nation continue to tolerate this sort of negligence in office?

Yesterday, 43 Senators sent a clear message to the Clinton administration that we cannot support a nominee whose credibility is in serious doubt as a result of numerous inconsistencies in statements by Dr. Foster and the White House. Beginning on February 2 when the President nominated Dr. Foster, a steady stream of inaccuracies were uncovered concerning crucial details about his professional medical background. Either Dr. Foster has a selective memory disability or the White House early on concluded that the full truth about Dr. Foster would sink his chances in the Senate.

After hastily confirming other Clinton nominees like Ron Brown and Henry Cisneros, both of whom have serious ethical and possibly even criminal misconduct charges outstanding against them, it is incomprehensible that the White House would not more carefully screen its nominees. Mr. President, let us not forget that President Clinton originally promised that his administration would be the most ethical in American history. It is remarkable how far President Clinton has fallen from the mark which he set for his administration.

I will not recount the long list of inconsistencies in Dr. Foster's record. Suffice it to say, that any nominee with such a tainted record before the Senate is de facto unqualified to hold high public office in this Nation. President Clinton should never have nominated Dr. Foster and when learning of the many inaccuracies in information provided to the Senate, President Clinton should have withdrawn the nomination.

Many months have passed while the administration attempted to rehabilitate Dr. Foster's reputation for veracity. However, nothing will change the fact that Dr. Foster and the White House consistently provided the Senate with false information. I cannot in good conscience support such a nominee.

Moreover, I have begun to think that we no longer need a Surgeon General. Many of the responsibilities of this Office could easily be fulfilled by others in the Department of Health and Human Services. Savings from elimination of the Surgeon General's Office could be contributed toward deficit reduction. With the total mishandling of the Foster nomination, President Clinton has demonstrated better than any of his predecessors the irrelevancy of the Office of Surgeon General.

Mr. KEMPTHORNE. Mr. President, I rise today to speak on the nomination of Dr. Henry Foster as surgeon general of the United States.

Let me begin by stating that I am unequivocally opposed to confirming Dr. Foster for this post.

I have been concerned about this nomination from the time it was announced. We are all well aware of the conflicting reports which came out of the White House about Dr. Foster's background. I do not think I need to go into the confusion created by the continually changing reports about the number of abortions which the doctor has performed. But those inconsistencies quickly cast a shadow over the nomination as to whether the administration had done its job of properly investigating a potential nominee.

While I do not believe Dr. Foster should be held responsible for the blunderings of the White House staff, the situation raised doubts about his forthrightness which have, in my mind, never been resolved.

One of the most glaring examples of this lack of candidness involved the Tuskegee Syphilis Study, in which black men with the disease went untreated as part of a study to examine the long-term effects of syphilis. While Dr. Foster claims he had no knowledge of the study prior to 1972, Public Health Service records indicate the Macon County Medical Society, of which Dr. Foster was vice-president,

and later president, knew of the study as early as 1969.

We have received conflicting reports about whether or not Dr. Foster attended the meeting in which the society agreed to cooperate with the PHS in the study. Even if he did not attend, documents from PHS officials indicate further efforts were made to share information on the study with all the members of the Macon County Medical Society. I simply do not see how Dr. Foster, as the vice-president of a 10-member society, could have completely avoided any knowledge of this study while so many efforts were being made to keep the society fully informed on this matter.

But let us not focus entirely on the past. What about the future? What kind of role would Dr. Foster play as surgeon general? He has stressed his concern about the rate of teenage pregnancy in this country. Surely, this is a concern which all of us share. Illegitimacy, especially among teens, is at a crisis level in the United States. Equally important, however, is the manner in which this issue would be addressed if Dr. Foster were confirmed.

The basis of Dr. Foster's efforts to reduce teen pregnancy may be seen in the ''I Have a Future'' program. From my knowledge of the program, it leans toward the attitude that, ''Kids will be kids.'' It assumes that when it comes to sex, we must teach children to be careful rather than responsible. I could not possibly disagree more with this view. Yes, children must be allowed to make some decisions for themselves. But we, as adults and parents, have a responsibility to instill strong values in today's youth.

Dr. Foster's ''I Have a Future'' program failed to provide such guidance. Teaching young people about sex, without stressing the importance of abstinence, at best, gives young people an incomplete message. At worst, it actually encourages the kind of behavior which we should be trying to discourage.

Mr. President, we are all well aware of the controversy which has surrounded the Office of the Surgeon General in recent years. The next surgeon general must be able to repair the damage which has been done to that position. The focus must be shifted from the personality of the office holder to the important health issues which face our Nation.

While I would not question Dr. Foster's level of concern about the issues he embraces, I do not believe he would be able to achieve this goal. For this reason, I will oppose Dr. Foster's nomination.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 14 minutes and 10 seconds.

Mrs. KASSEBAUM. And how much on the other side?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes 17 seconds.

Mrs. KASSEBAUM. Mr. President, I would like to yield myself 3 minutes.

As we close the debate today on the nomination of Dr. Foster, I would like to make just a few further comments about the process.

I think it has been a good debate the last 2 days. Prior to that time, the Labor and Human Resources Committee spent a considerable amount of time focusing on the substantive issues and raising substantive questions regarding this nomination.

Some, including a majority of the committee, were satisfied with the answers that Dr. Foster gave, and the vote was 9 to 7 to report him favorably from committee. Others, including myself, were not.

With respect to the process in the Chamber, the majority leader had a number of options, including the option of not bringing up the nomination of Dr. Foster at all. I have always believed we should have an up-or-down vote on nominations. Nevertheless, the course that was chosen by the majority leader is one that is a perfectly legitimate option, well within the rules of the Senate. These are rules that have been used frequently in the past by Members on both sides of the aisle—as has been pointed out in the course of this debate.

The majority leader has made this debate and these votes possible in less than 1 month after the nomination was reported from the committee.

There is nothing that would have made this process pleasant for any of us, most of all Dr. Foster. We may regret how we handle confirmation processes and nominations for members of a President's Cabinet and agency heads. It is not an easy process, and it has become, I think, increasingly a grueling one.

In this case, I believe it has been handled in a way which is well within the parameters of appropriate conduct. There are those who have questioned that, but I think there has been an opportunity to air strong feelings on both sides in ways that have fit the rules and the procedures of the Senate. I am not sure, Mr. President, that we can ask for more than that. It has been my own belief that Dr. Foster has answered successfully and well the questions that were put before him in the committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM. I will yield myself 1 more minute.

And those were important and substantive questions. For myself, I do not believe he is the person to be a successful Surgeon General of the United States at this time and that is why I have opposed his confirmation. Nevertheless, I feel strongly that the nomination has been debated and handled fairly within the scope of legitimate procedures of the Senate.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise in strong support of cloture, as I believe it is the right of the President to have an opportunity to have a vote up or down on a very fine man who is willing to dedicate his time to public service, who has an unblemished career of dedication to those people who need help, those who are economically disadvantaged, and those who have not seen the advantages that have been brought to so many others.

It is unfortunate that we find ourselves in this situation because there is no question that this man was picked because he would not ''Raise the specter of abortion,'' because his record, first of all, of being an ob/gyn doctor who only performed 39, 40, if you want to count another, abortions in 38 years is certainly not of one who is out seeking to make a career of abortions, by any stretch of the imagination.

In addition to that, by serving the poor and starting his program I Have a Future, he set an example we must replicate around this country of how we can get the young people in our schools to look towards the future with hope, to understand that teenage pregnancy is a bad situation and that he had all those kinds of rules that he followed in respect to that, teaching abstinence, of teaching parental guidance when possible, things that I do not think anyone disagrees with. It is true that the study was marred by utilization of statistics, but that does not in any way diminish the importance of the message he was giving to those young people.

Mr. President, I want to remind my colleagues what this vote is about. We are here to consider whether or not we will limit debate on this nomination, whether we not allow a minority of this Chamber to take this nominee hostage.

We are going to vote now, not on whether Dr. Henry Foster is qualified for the job of Surgeon General—which I believe he is—but on whether we will allow the President's nominee the courtesy, the due process, of an up or down vote on his nomination.

What reason could we possibly have not to vote? Whose interests are served by allowing a minority of Senators to deny a presidential nominee a confirmation vote?

The charges against Dr. Foster that we heard yesterday and today are just that—charges. They are allegations, not fact. During the committee process I spent hours and hours familiarizing myself with Dr. Foster's record and the specifics of his critics' charges. I became convinced of several facts:

Henry Foster did not learn of the Tuskegee experiments in 1969 at the

briefing given by public health officials. Not only is he documented as attending at a complicated Caesarean section birth shortly after the meeting started, but I believe the doctors who were at that meeting were not given the full story. Foster did not know anything about the denial of treatment for these men.

In fact, no one did, because even the doctors at the meeting were not told about it. According to the FBI, the public health officials were already covering their tracks and when they briefed these six or eight doctors they did not tell them the truth about the experiment. How could they have?

Certainly someone given the facts would have spoken out publicly and halted the 40-year-long project.

Foster did not know because nobody knew. Decades later, we cannot prove the content of the meeting because the minutes, trip report and file have long ago disappeared from the CDC archives as the officials tried to cover their tracks.

Dr. Foster has had a distinguished medical career, treating patients within the medical norms of his time and even advancing new and better treatments in many cases. I hope my colleagues will resist the temptation to judge treatments given decades ago—like the sterilizations of severely mentally impaired women—by the medicine of today.

Then as well as now, Dr. Foster has enjoyed the admiration and acclamation of his peers, and he has been supported in this nomination by every medical group that I can think of, ranging from the AMA, not known for its liberalism, to the American College of OB/GYNs to the American Association of Medical Colleges.

It is undeniably true that the administration did not serve Henry Foster's nomination well in its characterization of his record on abortion. Ever since they misinformed Senator KASSEBAUM's office about the number of procedures he had performed back in January, there has been confusion in the numbers game.

But after he had the opportunity to review his patients' medical records, Dr. Foster gave us a number; he is the physician of record for 39 surgical procedures since 1973. That number has not changed.

I can understand why he did not know off the top of his head, because I would be hard pressed to give an accurate count of the votes I have taken on a particular issue over the past 20 years. I might volunteer an estimate, but I would certainly have to do research to verify the number.

Some have implied that we should not vote on Henry Foster's nomination because he was once—once in a 30-year career—charged with medical malpractice. The charges were dropped. The case was not adjudicated. Yes, the allegation of improper conduct was made, but it was not substantiated.

I would suggest to my colleagues that we have a similar situation here and now with this nomination. There is no substance to the charges against this good man, this talented and hard-working doctor.

Let us not let ideology and politics get in the way of fairness. We have a collective responsibility to vote, even on controversial nominees. I do hope my colleagues will join me in supporting Dr. Foster's nomination, but at the very least I believe he deserves an up or down vote. Let us not deny him that. Please join me in voting for cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I yield 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. DODD. Mr. President, I thank the distinguished Senator from Massachusetts.

Mr. President, I spoke yesterday on this nomination, but I wish to emphasize again today my strong support for this nominee and my strong hope that this very fine American will be given a chance to be voted on, yes or no. I think it is regrettable that there are those who cast their votes against this man, who never even bothered to talk to him, never met him, did not participate in the hearings. I would invite my colleagues in the short time that remains to talk to their colleague from Tennessee, Dr. Frist. The rest of us talk about Dr. Foster. Although some of us met him and spent time with him, it has been just since February. Dr. Frist, our new colleague from Tennessee, has not only known him but worked with him. I would invite my colleagues to read his comments in the Senate Labor Committee hearings, just prior to the favorable vote coming out of that committee.

Some of us talk at least from some experience, having spent some time with him, but here is someone who actually worked with him, knows him from his State, knows people he has worked with. You can listen to speeches by those who oppose him, never met him, never sat down with him, in fact in some cases within hours after his name was sent up announced they were against him. That is almost unheard of. I respect those who let the hearing process go forward, gave him a chance to express his views, listened to him, and then said they were against him. But to never meet the man, never give him the benefit of a hearing, even a personal one, and then decide that he did not deserve to be voted on by this body, I think is a sad moment in this Chamber.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. KENNEDY. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mrs. MURRAY. I thank the chair. I thank my colleague.

I want to thank Senator KASSEBAUM for having conducted fair hearings and allowing the process to move forward. I hope that today's vote is one again of fairness.

A filibuster on nominations has only occurred 24 times. Twenty-two of those times in this body, the body has said the nomination deserves an up-or-down vote; two of those other times they were nominations made by Democratic Presidents and defeated by Republican filibusters.

I hope that fairness prevails as it has 22 times in the past and that this Senate votes today to allow this nomination to come forward so we can finally vote up or down on the nomination of Dr. Henry Foster. He deserves that vote, and he deserves our confidence.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, no matter how they have tried to distort and misrepresent the record of Dr. Foster, he is an outstanding physician, selected by the Institute of Medicine, selected to be on the governing board of the most prestigious board in the United States of America for a doctor, outstandingly well qualified.

On the one hand you have the sense of hope, the belief in the young people of this country, someone that really wants to give something back to this country for all that it has done for him. And on the other side you have gross distortions, misrepresentations, and negativism. That is what we have seen during the course of this debate. And the opposition is basically as a result of Presidential politics.

I say again, let us leave Presidential politics in Iowa and in the other primaries, and let us get on and give this outstanding individual the fair vote that he deserves.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kansas controls 10 minutes 20 seconds.

The Democratic leader is recognized.

Mr. DASCHLE. I understand the time allocated to this side has been expired. So, I will use my leader time to accommodate that.

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

Mr. DASCHLE. Mr. President, this is an important moment. The vote we are about to cast will affect more than one man or one position. It will help dictate the way this Senate discharges one of its most important duties. And I ask each of my colleagues to think about that as we cast our vote. Each of us has been afforded the right to make our case to the American public. That is how we got here. We cannot deny this afternoon the same right to a man who is clearly qualified to be the next Surgeon General.

The Surgeon General has been rightly called America's family doctor. And in that capacity he or she is called upon to grapple with some of the most

difficult problems of our day; problems like AIDS, problems like teen pregnancy, problems like substance abuse and breast cancer, problems that are devastating to the American people and to families all over this country.

This Senate has talked too little about these problems during the course of the last 5 hours. Instead of focusing on America's future, many Members of this Senate have chosen to focus on the past and, frankly, distorting it. That is regrettable. The distinguished majority leader said yesterday that this is not such an unusual occurrence. Twenty-six times in the last 27 years, he said, nominees have been denied confirmation by filibuster.

Well, just moments ago I heard the distinguished Senator from Iowa set the record straight on that issue. Senator HARKIN—as others have indicated on several occasions already during this debate—has attempted to correct the record on this and so many other matters that have been misreported or on which only half the facts were presented. The fact is that on every occasion during the 27 years Senator DOLE cited, when it was a Republican nominee, that nominee ultimately was approved with bipartisan support. Two nominees were prevented from being confirmed by a filibuster, and both were Democrats—Abe Fortas, who was nominated by President Johnson to sit on the Supreme Court, and Sam Brown, who was nominated by President Clinton for the rank of Ambassador. So the only filibusters that have prevented nominees from receiving a fair vote were Republican filibusters. Let us be clear about that.

So the question before us today is not whether Henry Foster is qualified to be Surgeon General. That is the question we will face should we take the next step forward. Mr. President, the question we face this afternoon with this vote before us now is one of fairness. And the American people have made themselves abundantly clear on the question of fairness. The majority of people have said in poll after poll, Henry Foster deserves a vote. And the majority of this body agrees with that sentiment.

Are we going to confront the health problems that are devastating America's families and give Dr. Foster the opportunity to combat those problems as Surgeon General? Will we do that? Or are we going to allow partisan Presidential politics to stifle that debate?

The question we face right here, right now, is simply that. It is a question of fairness. What message are we sending to Dr. Foster, to the American people who believed in his right to a fair vote? What message are we sending to the people who look up to Dr. Foster as a role model and to all the Americans who need the services of a qualified Surgeon General today if we refuse to extend to Dr. Foster the opportunity given every one of his predecessors? Mr. President, the issue this afternoon is simply one of fairness.

What is really being judged here, unfortunately, is not Dr. Henry Foster. For 6 months, Dr. Foster has been subjected to intense scrutiny from the Labor Committee, from the media, and from the American people. And he has passed every test. The only test he did not pass was the litmus test of the far right. What is being judged here is the Senate itself and the way the Senate deals with those who come before us to offer their public service.

Henry Foster is an extraordinary physician and leader. If this were not an election cycle, I have no doubt that he would be Surgeon General already, that this Senate would have confirmed him overwhelmingly long ago. Henry Foster is a selfless man who wants to serve his country and is being wasted for the selfish political ambitions of a few. If we prevent him from receiving a fair vote, we will make it even more difficult to attract good, qualified people to public service. And this body, the U.S. Senate, will be judged harshly.

Mr. President, I close with this thought: It is the position of this Senator that the process we have just seen is clearly wrong. It is wrong for the United States and it must be stopped. The business of interest groups fanning out through the country, digging up dirt on a nominee, the business of leaks, of confidential documents put out to members of the press, the idea that absolutely anything goes that is necessary to stop a nominee, this whole process must end. We in the Senate have the power to encourage that process or the power to stop it. We have that power by the vote we are about to cast.

Mr. President, those are not my words. They belong to a former colleague, Senator John Danforth. Senator Danforth issued that eloquent plea nearly 4 years ago in the defense of Clarence Thomas' right to a vote on his nomination to sit on the Supreme Court. Justice Thomas received that vote. He received that vote with the backing of some of the very same people who now would deny that vote to Dr. Foster. And I urge Members, in particular today on this nomination, to put politics aside just for the moment and allow Dr. Foster's nomination to move forward. It is a question of fairness, Mr. President. And the answer—well, the answer is in our hands.

I yield the floor.

The majority controls 10 minutes.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. As I said yesterday, I would like to begin with just a few facts, facts we sometimes are not using in debate or are not reported by the media. Let me again say, because I did not read it anywhere and did not hear it on television—maybe it was on radio: During these 2½ years in office, President Clinton has submitted 251 names to the Senate for confirmation of civilian positions. Of these 251, 115 have been confirmed, 1 withdrawn and none defeated. The rest are in the confirmation pipeline.

Let us get the record clear right up front. You talk about fairness. That is 251, and not one defeated. And, second, I heard about a filibuster. I do not know of any filibuster going on. If so, I missed it. By unanimous consent we agreed to this procedure. I think it is a good one. We are giving Dr. Foster the same thing we gave Chief Justice Rehnquist back in 1986 when I had to file cloture because the Senator from Massachusetts would not let it come to a vote.

So Dr. Foster's nomination was reported out of the Labor Committee on May 26. We began this debate on June 21, and during that period there has been a 7- or 8-day recess. So Dr. Foster has been treated fairly. The Labor Committee has acted promptly and his nomination has been placed before the full Senate for debate and a vote.

Again, as I said yesterday, I have always felt that the President should have a right to his nominees, but there may be exceptions from time to time, and I have voted against nominees from time to time—not very often. I believe the record will show that we have cooperated in nearly every case; in fact, even helped the President with some of the nominations which might have been in trouble without assistance from this side of the aisle.

There is plenty of precedent for rejecting a nomination on a cloture vote. Again, as I said, I will put in the RECORD for everyone to see that there were 24 nominations, including the nomination of William Rehnquist to be Chief Justice, which had to face cloture vote hurdles.

So overnight, I have done a little research on the Rehnquist nomination, and I learned that 19 of my Democratic colleagues who are still in the Senate today voted against invoking cloture on this nomination: Senators BAUCUS, BIDEN, BRADLEY, BYRD, DODD, EXON, GLENN, HARKIN, INOUYE, JOHNSTON, KENNEDY, KERRY, LAUTENBERG, LEVIN, MOYNIHAN, PRYOR, ROCKEFELLER, SARBANES, and SIMON, and also then Senator ALBERT GORE. Now, certainly, he would not be unfair, but he was, according to all the rhetoric I heard coming from the other side.

In fact, I filed a cloture motion on the Rehnquist nomination because my colleague from Massachusetts, Senator KENNEDY, was apparently unwilling to end debate. Do not take my word for it, just take a look at page 23336 of the Congressional RECORD for September 15, 1986. Senator KENNEDY also urged his colleagues to follow the Abe Fortas example: Defeat cloture so the Rehnquist nomination will be withdrawn. That can be found on page 22805 of the CONGRESSIONAL RECORD of September 11, 1986.

So, Mr. President, we hear a lot of talk about fairness, we hear a lot of talk about the need for an up-or-down vote, but I do not remember all the hand wringing about fairness back in

1986, or many times since that time, when at that time the Chief Justice Rehnquist nomination was on the line.

What does history tell us? History tells us that 31 of my colleagues on the other side of the aisle were prepared to filibuster a nominee to one of the highest positions of our Government, and today many of those who supported this filibuster allege unfairness when Republicans exercise the same right—the same right—only this is a minor office compared to the Chief Justice of the Supreme Court.

We are talking about a nominee to an office with a budget of under $1 million with a staff of six. But he is supposed to make certain everybody is taken care of, all the medical problems are going to be taken care of if we just vote yes on this nomination, according to my distinguished colleague from South Dakota, Senator DASCHLE.

In fact, I remember my colleague from Massachusetts arguing against the Justice Rehnquist confirmation because he ''lacked candor in testifying before the Senate Judiciary Committee'' and because of Justice Rehnquist's ''alleged pattern of explanations * * * that are contradicted by others or are misleading or do not ring true.''

Does that sound familiar? Many of us said this time the same thing about Dr. Foster.

I have talked to him personally, others have talked to him, others who are on the committee. We should not have the right to make that judgment because we are Republicans, but it is all right to make it against the Chief Justice nominee for the U.S. Supreme Court.

So, Mr. President, facts can be stubborn things. They are rarely noted by the media, not often used in this Chamber. But they show that we have a double standard and it is alive and well in Washington, DC. And it goes on and on and on. We hear all the hand wringing over there and all the talk of Presidential politics on this side and nothing about Presidential politics downtown. This is not about Presidential politics. That may be a good sound bite. This is about Dr. Foster and his qualifications for the office, and it is about our right to advise and consent.

I must say, as I look back on it, we could have chosen other options, but it seemed to me this was a fair option, just as fair as it was for Justice Rehnquist who was nominated to be Chief Justice.

Cloture was invoked in that case. Cloture can be invoked in this case. The issue is not whether cloture was invoked on 22 of the 24 nominations that have been subjected to cloture procedure. This is a false distinction. What is important is we have had 24 nominations subjected to a cloture vote. So he can get an up-or-down vote, all he needs to do is get 60 votes on this, as others have done in the past.

I do not question those who say Dr. Foster is probably a fine person. I do not know Dr. Foster that well. I have had one visit with him. I do not snoop around about his past. I think Senator DANFORTH was right when he made that statement: Tell it to the family of John Tower when you talk about allegations and stuff over the transom, under the transom and wrecking somebody's character; tell it to John Tower's family. He is gone.

Tell it to Robert Bork. Tell it to his wife when they were harangued and harassed day after day after day by the Judiciary Committee.

Tell it to Bill Lucas and his family, the fine outstanding sheriff of Wayne County, MI, an outstanding black American who did not even get a vote, any kind of a vote on this floor, because the Judiciary Committee voted, in a 7–7 tie, and would not report him out.

That is the thing the Democrats do not tell us: How many Republicans never had a hearing, were never reported out of the committee, and when they were reported out, they stayed on the calendar; never had the courtesy to even have a cloture vote. They died on the calendar.

I have not heard anybody say anything about that over there, and I put those facts in the RECORD. I thought surely somebody would get up and explain why the Democrats would do that when they talk about fairness and their hearts ache and they cannot sleep at night. Why do they not read the RECORD and go back and call all the families of the people who did not even get a hearing or were on the calendar week after week after week, month after month after month and never even had the courtesy of a vote, not even a cloture vote.

So I know all about it. I have been here a while, and I keep track of these things. What comes around goes around, and none of us are perfect. When we make arguments on the Senate floor, we ought to go back and look at the last argument we made and the one before that to see if it is consistent and how did we vote on Rehnquist before standing up to make a speech.

I can recall in 1980 joining with the Senator from Massachusetts, Senator KENNEDY, when they wanted to block John Breyer's nomination. I said it should not be blocked, and I voted for cloture, and we succeeded. He was a Democrat, so it is not politics.

This nomination was flawed from the start, and the President knows it. But he sought to divide the American people on the issue of abortion. That is all this nomination is about, trying to divide the American people for political purposes, and the President talks about politics and his Chief of Staff Leon Panetta goes on television this morning in some outrageous statement about a vengeance up here—vengeance—which means they must be losing.

So I wish Dr. Foster well. No one likes to see someone who may want to have a job denied that opportunity. I met with a lot of the families who did not even get a vote of any kind because they were Republicans in a Democratic Senate. Well, Dr. Foster is getting a vote. I promised him that, and he is getting it very quickly, in 2 days.

I met with him on Monday, and here it is Thursday, and we are going to have the second vote. I think his initial lack of candor and certainly lack of truthfulness on the part of the White House made this nomination in doubt from the start.

So whether it is his misleading statements concerning his abortion record, or his alleged knowledge of the infamous Tuskegee syphilis study or involvement in sterilizing several mentally retarded women, there are just too many questions. If the Senator from Massachusetts can say that somebody lacks candor, maybe we can say it with the same credibility on this side of the aisle. Maybe we are not entitled to that because we are Republicans, only the liberals are entitled to make those judgments. But we are, too.

As I said yesterday, we need somebody in that position to be America's doctor—not Republicans, not pro-life, not pro-choice, not Democrats, not conservatives, not liberals, but America's doctors. It is not a policy position, it is a public relations job, with a staff of six. The world will not come to an end if we do not ever fill this office or if it is abolished.

So it seems to me we do not want somebody to divide us, as the previous Surgeon General did, about legalization of drugs and all the other statements made by that Surgeon General, but that has nothing to do with this nomination. My point is, if there is somebody out there, there are thousands and thousands of good people out there who can unite America, unite Americans, whatever they can do in that office, and this is not the right nomination.

Again, I agree with Senator DANFORTH. I wonder sometimes why anybody would accept a nomination, but I do not know anybody on this side who has been personal about Dr. Foster. I am proud of the fact he is a veteran. As far as I can see, he is a good person. We had a nice visit. But also we have to have a record, and the record, I think, is the problem: His lack of candor.

So we are proceeding, I think, in a very fair way, as we look at history and look at the record and look at how quickly this nomination has moved.

It seems to me cloture should not be invoked and this nomination would go back on the calendar, as the unanimous-consent agreement indicates.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. THOMPSON). The hour of 2 p.m. having arrived, 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 debate on Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States:

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, Tom Daschle, and Carol Moseley-Braun.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Henry W. Foster, Jr., to be Surgeon General, shall be brought to a close?

The yeas and nays have been required.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 280 Ex.]

YEAS—57

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Frist	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Gorton	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Heflin	Packwood
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Campbell	Jeffords	Reid
Chafee	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Simpson
Dorgan	Kohl	Snowe
Exon	Lautenberg	Specter
Feingold	Leahy	Wellstone

NAYS—43

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the nomination is returned to the calendar.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers wish to report steady progress on this bill. However, we have an amendment now being reviewed by all parties involved in the Stevens-Murkowski amendment. We are awaiting a report back on their negotiations, which I am hopeful will resolve these issues.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. WARNER. Mr. President, I believe we can now proceed.

Once again, I wish to inform the Senate on behalf of the managers that we are making progress. The one remaining amendment which is yet to really be fully reconciled is that regarding the issues in Alaska, the amendment proposed, of course, by the senior Senator and junior Senator, Mr. STEVENS and Mr. MURKOWSKI.

Until that matter is further refined, I have nothing further at this time and I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1464

Mr. CHAFEE. Mr. President, on behalf of Senator SMITH and Senator GREGG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself and Mr. GREGG, proposes an amendment numbered 1464.

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

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

The amendment is as follows:

At the appropriate place on the bill add the following new section:

SEC. .

The State of New Hampshire shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

Mr. GREGG. Mr. President, I rise in support of this amendment which allows New Hampshire to meet the safety belt use law requirements under section 153 of ISTEA. Under this amendment, highway safety funds would not be transferred from highway construction projects to highway safety programs if the safety belt use rate in fiscal years ending September 30, 1995, and September 30, 1996, is not less than 50 percent. In fiscal years thereafter safety belt rate shall not fall below the national average as determined by the Secretary of Transportation.

It is my belief that the Federal Government should not mandate seatbelts; those decisions should be left to the States. I believe all individuals should wear seatbelts whenever they ride in a vehicle. Furthermore, I believe that local government, not the Federal Government, should continue to play a role in educating people regarding the need to take every precaution when operating a vehicle.

As a former Governor, I realize firsthand the frustration local government experiences when the Federal Government attempts to micromanage public policy. Americans no longer want big brother looking over their shoulder attempting to force compliance with regard to seatbelt compliance.

I am pleased that this amendment, which allows New Hampshire to be judged on its safety record for safety belt usage, has been adopted. This amendment will remove the current unfair mandatory penalties forced on New Hampshire without regard for its excellent seatbelt compliance record.

Mr. CHAFEE. Mr. President, this is an amendment that takes care of a particular situation that has arisen in New Hampshire and addresses the desires of the Senators there. They are doing extremely well as far as their seatbelt usage goes. This makes them continue in that path and move up to the national average as time goes on.

It is an amendment that has been cleared by both sides, and I think it is a good one.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. May I ask the distinguished chairman of the committee, is this the same version the chairman showed me not too long ago, maybe about an hour or so ago?

Mr. CHAFEE. Yes.

Mr. BAUCUS. Mr. President, we have examined this amendment and we think it is acceptable.

Mr. SMITH. Mr. President, I want to thank the managers of this bill, the Senators from Rhode Island, Virginia,

and Montana, for working with me on a compromise amendment that would provide relief to the State of New Hampshire from certain highway-related penalties. The issue we have been debating for the last 2 days in section 153 of ISTEA, which sanctions States that have not enacted mandatory motorcycle helmet and seatbelt laws.

This section of current law penalized the State of New Hampshire by diverting its scarce highway maintenance and construction funds to its safety program—whether or not this makes any sense. In other words, the penalties are assessed regardless of whether New Hampshire already has an adequately funded safety program directed toward helmet and seatbelt usage, and irrespective of New Hampshire's safety record. States constantly tell us that they are in a better position to address these types of issues than the Federal Government is, and I strongly agree.

Yesterday, the Senate voted to repeal the penalties for noncompliance with motorcycle helmet laws. Today, we have reached an agreement on an amendment that would provide an incentive for the State of New Hampshire, which does not have mandatory seatbelt law, to maintain its 50 + seatbelt use rate and strive to reach the national average within 2 years. If they do not meet these goals, then the sanctions will be imposed as current law dictates.

This is a very reasonable amendment and it does not compromise the Senator from Rhode Island's objective of achieving a higher percentage of individuals wearing seat belts. In fact, it creates a more effective incentive, without being punitive or infringing on States rights.

New Hampshire will continue to education its citizens on the benefits of seatbelt use. Educational programs like those we have in New Hampshire certainly play an important role in increasing highway safety. States do have the expertise and know-how to develop their own programs without Federal intimidation.

In conclusion, I strongly believe that it is through education, not necessarily a mandatory law, that we will achieve higher rates of seatbelt use. New Hampshire is capable of ensuring the safety of its citizens without the paternalistic arm of the Federal Government dictating to us how we should accomplish this goal.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, is there an amendment pending before this, the Exon amendment?

The PRESIDING OFFICER. There are two amendments pending at the present time, the Smith amendment——

Mr. CHAFEE. Is the Smith amendment ready for consideration?

The PRESIDING OFFICER. It is.

Mr. CHAFEE. All right. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1464) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, if there is no other business to come before us immediately, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, I wonder if the Senator will withhold just for a comment or two about the bill?

Mr. CHAFEE. I certainly will.

Mr. COCHRAN. Mr. President, it is my understanding it would be in order for comments to be made about the bill, not necessarily about the amendment that is pending. Is that correct, as a parliamentary inquiry?

Mr. WARNER. Mr. President, the Senator is correct. The managers of the bill are awaiting reconciliation of several amendments. At that point in time, we will move toward final passage, but we welcome the comments of our distinguished colleague from Mississippi beforehand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me commend the managers of the bill for the good work they have done in bringing this legislation to the floor. It is an important contribution to the infrastructure of this country for the Congress to take action on this bill in a timely fashion so States and localities who depend upon these allocations of funds can make plans to do it in a systematic way and to carry forward some of the important road and bridge projects that would be funded in this legislation.

I know in our State of Mississippi hardly a bill is passed by the Congress that is more important to the continued economic progress and development of our State than this legislation that is before the Senate today.

I know that there is also a continuation of a study called corridor 18. That may very well provide a new major corridor and interstate type highway which could go through Mississippi, and it may very well, I am sure, traverse many States in the central part of the country, from Ohio down to Houston, TX, and maybe beyond. There are many communities along this potential corridor that would benefit substantially in an economic way from the opportunities to grow and develop, providing jobs, producing economic activity and business activity along the way. We hope that study can be successfully completed, and the feasibility of it established so that in a timely way we can see the ultimate construction of that.

There are other parts of the bill in which we are interested as well. It was brought to the attention of the manager that there is some language that we would like to see included in a managers' amendment at the appropriate point to permit our State to have access to a visitors center just south of the Tennessee line. This was something that was provided for in the 1994 appropriations bill but has not yet been finally resolved. We hope that this bill can include some language that would help that situation be resolved in a satisfactory way.

But all in all, this is a good bill. It is an important bill. It is a restrained bill. The Senators have been encouraged not to get involved in new demonstration type projects in the bill. I know we cooperated in that.

We want the managers to know that we appreciate the way that they have maintained discipline in this process and have shown that restraint.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

I wish to bring this to his attention. He said we have asked them not to add projects. We have not added any. I think this bill can meet whatever test as a clean test in terms of demonstration projects. The American public does not want to see these anymore. The various Governors and highway commissions in the several States do not want to see them anymore. I think this bill is a landmark bill in terms of its absence of that type of project. That is owing to the full cooperation of the Senate on both sides of the aisle.

So I thank the Senator for bringing it up. I was fearful when he said add not a lot, some might in turn interpret that as that some had been added.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Virginia for his comments. I certainly agree with him. I recall in my early days in the Congress. I served in the other body, and I was assigned to the Public Works and Transportation Committee. I served on the Surface Transportation Subcommittee. I had some good experience in working with Senators, like Senator CHAFEE, and other members of committee over here on this side of the Capitol.

This is important work. I think it is work that has been well done, and I commend all Senators who have had an active role in the development of the bill and the managing of it on the floor of the Senate.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the Senator from Mississippi for his very generous comments. I appreciate the kind words he had to say about the work we have done.

I discovered that I have come to the conclusion after a while around here that there are a few bills that attract more attention than highway bills. Everybody shows up when there is a highway bill. And I must say the Senators have exhibited tremendous restraint. Maybe the restraint came about because we did not adopt any. I do not

think there is a single demonstration project in this bill. I would not know. Because if there was one, I would have one in there for Rhode Island.

But the distinguished chairman of the subcommittee has resisted any such demonstration grants or specific authorizations for projects within this State or that State. And, so far, we are not through yet. We are not across the finish line. But we have done pretty well so far. If the word should get out that we did any, if we did, I am sure that we would have not four amendments left but 100.

So, Mr. President, I hope we can continue the restraint we have shown. I appreciate the wonderful support of the Senator from Mississippi who has been long interested in these matters.

Mr. WARNER. Mr. President, I say to our distinguished chairman of the committee, I wish to reiterate it has been a bipartisan effort. There has been complete cooperation. Many Senators thinking this was an appropriate piece of legislation, as it has been in the past for such projects, came up and, when we acquainted them with the policy decision, they accepted it; indeed, in many respects endorsed it knowing that history shows that so many projects of that type that were adopted by the Congress have gone back to the States and have proven not to be in terms of priorities what the States really need. Now the States are given greater discretion and the money with which to exercise that discretion.

I thank the distinguished chairman.

Mr. CHAFEE. Mr. President, I want to echo what the Senator from Virginia said about the bipartisan effort, that the senior Senator from Montana has been tremendously helpful in this. It is not easy. We all have friends that come up and want to remind us of what we want from their committee; and, two, what a modest little item it is that they are requesting. So far, so good. I hope we can continue in that regard.

Mr. DOLE. Mr. President, I wonder if the Senator from Rhode Island—I know there are four amendments. Are they going to be offered? Should we move on to another bill and come back to this next week? We do not want to sit here in a quorum call for a couple of hours while Members are floating around the Capitol.

Mr. WARNER. If I could most respectfully address our leader, I would urge that he give us a brief period of time within which to urge the presentation of these amendments.

Mr. DOLE. Which four are they? Maybe we can identify the players and have them get over here.

Mr. WARNER. The principal amendment for which there could be some concern is the amendment of the two Senators from Alaska. Within the hour I have consulted with them on it. Frankly, they are questions in my judgment, and very legitimate ones. It is a problem involving State rights. It goes back many years in Alaska. I left one of the two Senators with the clear impression that he was going to present the amendment, and unless he is able to effect a resolution of the matter—I am prepared to accept the amendment from the Senator from Alaska. I would have to allow the other side to speak for itself on this issue.

Mr. CHAFEE. I wonder if we might have a quorum?

Mr. DOLE. Is it a managers' amendment? I do not know which amendments they are. I am serious.

Mr. WARNER. There is a managers' amendment.

Mr. DOLE. Is that one of the four?

Mr. WARNER. Yes.

Mr. DOLE. An Exon amendment.

Mr. WARNER. Mr. President, that amendment has been resolved, the Exon amendment. At this time, I ask unanimous consent that that amendment be deleted.

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

Mr. DOLE. So that would leave Stevens-Murkowski.

Mr. WARNER. That is correct. That is one amendment.

Mr. DOLE. Chafee-Warner, a managers' amendment. That is the second amendment. Are there two others? Smith?

Mr. CHAFEE. That is resolved. There are only two.

Mr. WARNER. Mr. President, there is a remaining one from the Senator from Maryland [Mr. SARBANES]. I have spoken with him within the hour, and indicating—and I will take responsibility—that I cannot accept the amendment. It relates to the Baltimore-Washington Parkway. I am fearful it would be construed by other Senators as being in the nature of a—even though it is authorized already—project. And I felt that I could not accede to his request, regrettably. So that amendment would not be accepted on this side.

Mr. DOLE. I certainly want to thank the managers. I do not have any quarrel with the managers. But those who have amendments, you know—people are going to be wanting to get out of here for an August recess. They do not want to be here late at night. But they do not want to be here in the afternoon. We cannot have it both ways.

Mr. CHAFEE. We would prefer not to be here in the morning either.

Mr. DOLE. They do not want to be here in the morning either. It is very difficult for the managers who are down to three amendments. They have been on this bill long enough—last week, and 4 days this week. The bill was supposed to take 2 days. It has taken almost 5. Because we want to go to securities litigation next, the only thing I know, without prejudicing the managers, if we cannot conclude it by 3:30, then we would move to another matter and this would come back sometime when we finished the next bill.

Mr. WARNER. I would say to the distinguished leader that the managers' amendment is prepared in the nature of a technical amendment.

Mr. DOLE. Sure.

Mr. WARNER. There really is only one amendment, and that is the one by the two Senators from Alaska. I will go back to them immediately to determine what their desire is.

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

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

PRIVATE PROPERTY RIGHTS

Mr. GRAMS. Mr. President, I would like to engage in a short colloquy with the Senator from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, the manager of this bill.

Mr. President, I had intended to offer an amendment which would broaden the definition of like-kind property that would allow affected landowners to defer the capital gains tax after the forced sale of property which is taken for use in various infrastructure projects. I simply do not believe it is fair to expect property owners who do not wish to sell their property to be unable to defer their capital gains tax if they are not able to reinvest the amount of the gain in an expanded like-kind property. It is my desire to work with you in your capacity as a member of the Finance Committee to achieve a broader definition of like-kind property.

I have discussed this matter with the Finance Committee staff. However, I would respectfully ask your assistance in ensuring that the Finance Committee will examine this issue when it considers reconciliation this year.

If that is possible, I would be pleased to withdraw my amendment from consideration.

Mr. CHAFEE. I understand the problem the Senator from Minnesota has raised. I will ask the chairman of the Finance Committee to examine this issue when the committee considers reconciliation, and specifically to consider the problem highlighted by the Senator's amendment.

Mr. WARNER. Mr. President, there is on the list of amendments an amendment by the Senator from Maryland [Mr. SARBANES]. That amendment, regrettably, cannot be accepted and, therefore, it will not be considered as a part of this bill.

That leaves on the list the only amendments being that of the Senators from Alaska and the managers' amendment. I understand there is an amendment by the Senator from Oklahoma [Mr. NICKLES] that is still on the list, and I am not prepared to act on that right now.

I ask my comanager if this is a time and moment to go to the managers' amendment.

Mr. BAUCUS. Mr. President, if the Senator will yield, it is, I think, very timely. I might say, I do not know what progress we are going to make, if any, on the Nickles amendment. This side does not know what it is. I see the Senator from Oklahoma on the floor right now. Maybe he is in a position to tell us.

Mr. NICKLES. Mr. President, I will be happy to inform my colleagues. The essence of the amendment is to allow States that do not have Amtrak service to use some of their mass transit moneys to subsidize Amtrak service. Senator D'AMATO indicated some reservations about it. We are trying to work with him. Hopefully, we will have that worked out in a few moments.

Mr. WARNER. So I understand, a few moments could be a few minutes?

Mr. NICKLES. That is correct.

AMENDMENT NO. 1465

(Purpose: To improve the bill)

Mr. WARNER. Mr. President, I send to the desk now the managers' amendment on behalf of myself, Mr. CHAFEE and the Senator from Montana, Mr. BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. CHAFEE and Mr. BAUCUS, proposes an amendment numbered 1465.

Mr. WARNER. 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:

On page 22, between lines 2 and 3, insert the following:

SEC. 1___. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

''(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).''.

On page 26, between lines 8 and 9, insert the following:

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

On page 26, between lines 13 and 14, insert the following:

(c) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.''.

On page 30, strike line 14 and insert the following:

SEC. 119. INTELLIGENT TRANSPORTATION SYSTEMS.

On page 30, lines 15 and 16, strike ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and insert ''INTELLIGENT TRANSPORTATION SYSTEMS''.

On page 31, lines 1 and 2, strike ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and insert ''INTELLIGENT TRANSPORTATION SYSTEMS''.

On page 31, lines 10 and 11, strike ''intelligent vehicle-highway systems'' and insert ''intelligent transportation systems''.

On page 31, between lines 20 and 21, insert the following:

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2048) is amended—

(A) in item 10, by striking ''(IVHS)'' and inserting ''(ITS)''; and

(B) in item 29, by striking ''intelligent/vehicle highway systems'' and inserting ''intelligent transportation systems''.

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2176) is amended by striking ''intelligent vehicle highway systems'' and inserting ''intelligent transportation systems''.

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

''PART B—INTELLIGENT TRANSPORTATION SYSTEMS'';

(B) in section 6051, by striking ''Intelligent Vehicle-Highway Systems'' and inserting ''Intelligent Transportation Systems'';

(C) by striking ''intelligent vehicle-highway systems'' each place it appears and inserting ''intelligent transportation systems'';

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking ''intelligent vehicle-highway'' and inserting ''intelligent transportation systems''; and

(ii) in the subsection heading of subsection (b), by striking ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and inserting ''INTELLIGENT TRANSPORTATION SYSTEMS'';

(E) in the subsection heading of section 6056(a), by striking ''IVHS'' and inserting ''ITS'';

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking ''IVHS'' and inserting ''ITS''; and

(G) in the paragraph heading of section 6059(1), by striking ''IVHS'' and inserting ''ITS''.

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking ''intelligent vehicle highway systems'' and inserting ''intelligent transportation systems''.

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking ''Intelligent Vehicle-Highway Systems'' each place it appears and inserting ''Intelligent Transportation Systems''; and

(B) by striking ''intelligent vehicle-highway system'' and inserting ''intelligent transportation system''.

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking ''INTELLIGENT VEHICLE-HIGHWAY'' and inserting ''INTELLIGENT TRANSPORTATION''; and

(B) by striking ''intelligent vehicle-highway'' each place it appears and inserting ''intelligent transportation''

On page 33, line 19, strike ''intelligent vehicle-highway systems'' and insert ''intelligent transportation systems''.

On page 36, line 12, strike the quotation marks and the following period.

On page 36, between lines 12 and 13, insert the following:

''(24) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.''.

On page 38, beginning on line 2, strike ''and shall not'' and all that follows through ''program'' on line 4.

On page 40, strike lines 1 through 3.

On page 43, between lines 14 and 15, insert the following:

SEC. 1___. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

On page 57, line 4, insert ''and'' at the end.

On page 57, line 8, strike ''and'' at the end.

On page 57, strike lines 9 through 11.

Mr. WARNER. Mr. President, this amendment makes technical changes to S. 440 and minor modifications that have been cleared on both sides. Such modifications include, first, streamlining the enhancements program and the traffic monitoring program; second, changing the name of ''intelligent vehicle highway systems'' to ''intelligent transportation systems''; and, third, require a report on effectiveness of accelerated retirement vehicle programs, and other purposes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is basically, as most managers' amendments are, an amendment which contains minor modifications and technical corrections. One I would like to point out to the Senate is the change in reference to the ''intelligence vehicle highway systems'' to ''intelligent transportation systems.''

The theory of the ISTEA legislation that this is the heart of is that we are trying to broaden the definition of ''transportation'' to include intelligent functions; that is, more advanced technologies in highway travel to include not only highways but other transportation modes. It, obviously, includes seaports and also intermodal connectors.

I urge the adoption of the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the managers' amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1465) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the two remaining amendments are being very actively worked on by their sponsors. The managers hope to be able to report to the Senate in a very brief period of time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to describe what I think is the result of the discussions that we have been having these past few days.

First of all, let me say that I support passage of legislation to designate the National Highway System as directed by ISTEA, the Intermodal Surface Transportation Efficiency Act of 1991. I was, in fact, an original cosponsor of legislation in both the 103d and the 104th Congresses to accomplish this task. This $6.5 billion bill authorizes critically needed funds, and I would like to consider just a few of the facts.

Almost one-fourth of our highways are in poor or mediocre condition, while another 36 percent are rated in the fair category. One in five of the Nation's bridges is structurally deficient—20 percent—meaning that weight restrictions have been set to limit truck traffic.

On urban interstate highways, the percentage of peak hour travel approaching gridlock conditions increased from 55 percent in 1983 to 70 percent in 1991, costing the economy $39 billion.

Experts indicate that an additional annual investment of $32 billion is needed to bring our highway and bridge infrastructures up to date, and failure to make those investments increases the costs, both in the short and long term.

For example, failure to invest a dollar today in needed highway resurfacing can mean up to $4 in highway reconstruction costs 2 years from now.

The ability of our country to sustain higher productivity is the key to economic growth and a higher standard of living.

Higher productivity is, in part, a function of the public and private investment. Recognizing that reality, over 400 of our Nation's leading economists have urged Government to increase public investment. They urged us to remember that public investment in our people and in our infrastructure is essential for economic growth.

Clearly, the National Highway System program was designed to be part of a comprehensive program of public investment.

However, as much as I support moving this legislation forward, I will vote against the NHS bill.

Provisions in this bill are totally inconsistent with, and as a result radically undermine, the goal of increasing investment and productivity.

My concern here is that specific provisions, amendments to this bill, undermine safety and will substantially increase human and economic costs.

While one amendment to the bill was excellent and requires States to institute zero tolerance laws—that means almost no acceptance of any presence of alcohol behind the wheel is accepted. It is .02, very low, and that is the way it ought to be. That is very positive. It is a proposal that I strongly supported, having been the author or father of the 21-age drinking bill and seeing how successful we were over the last 10 years. It was a very positive step. It will save lives and reduce expenditures. But in total, as a result of this bill, more lives will be lost than will be saved.

Opponents of speed limits and motorcycle helmet laws—which passed this body—argue that decisions in these areas should be the responsibility of the State. I could not agree more. I want to give some decisions to the States that would increase their flexibility in using Federal transportation assistance. But I cannot buy into the concept that removing speed limits, increasing speeds across our Nation's highways and roads, is going to help anything except to create mayhem. More people will die and more expenses will be incurred.

The same thing is true with the helmet laws. To remove helmets is, in my view, positively ludicrous. I do not understand what it is that motivated this body to say take off your helmets, let the wind blow in your hair, and God help you if someone runs over you. I supported the concept in ISTEA for flexibility for States and, again, allowing the States to use NHS funding to support intercity rail service. This is human rights, the right of the individual to be safe. It is the right that all of us have not to have to spend money because people do foolish things in our society.

Mr. President, one-third of all traffic accidents are caused by excessive

speed. The National Highway Traffic Safety Administration estimates that total repeal of Federal speed limit requirements will increase the number of Americans killed on our Nation's highways by about 4,750 persons per year.

In addition, there will be substantial financial consequences associated with a repeal. Death and injuries will increase as a result of ending Federal speed limit restrictions. But it is going to cost taxpayers $15 billion more each year in lost productivity, taxes, and increased health care costs.

This loss would be on top of the $24 billion we already lose as a result of motor vehicle accidents which are caused by excessive speed.

So, Mr. President, I want to restate that this bill is a $6.5 billion investment in our Nation's infrastructure, our highways. But, at the same time, we have added an amendment that is going to cost us $15 billion more over the life of this bill than we are presently spending. The total investment for the whole bill is $6.5 billion.

Mr. President, the same argument applies to the helmet provisions in the bill. More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclist. Head injury is the leading cause of death in motorcycle crashes. Now, compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury when involved in a crash.

The NHTSA estimates that the use of helmets saved $5.9 billion between 1984 and 1982. Now, repeal of mandatory helmet requirements will increase the death rate projected for motorcycle riders by 391 persons per year and will increase the costs to society by $389 million each year. And all of us chip in to pay for those expenses.

The American public supports a strong Federal role in transportation safety initiatives because they understand the benefit of mandatory helmet and safety belt laws, mandatory 21 drinking age laws, and maximum speed limit laws.

Unfortunately, the Senate has chosen to ignore the majority will and the public, and all of the empirical data on the value of transportation safety measures.

As a result, Mr. President, this bill gives with one hand and takes away with the other. It authorizes $6.5 billion worth of spending in infrastructure investment, while adding almost $15.5 billion in additional costs to our society.

My colleagues recognize this fact as evidenced by the rejection of the amendment by the Senator from Texas, Senator HUTCHISON, which would have, in effect, required States to directly absorb medical costs associated with motorcycle riders who were not wearing helmets and were injured in an accident.

She said, very simply—and I agreed with her and we got lots of votes—if a State does not want to take prudent measures to have people protect themselves on our highways, they ought to pay for it when accidents and expenses are incurred.

I want the Congress and the country to understand what is at stake in that debate—4,900 lives, tens of thousands more injuries each year, hundreds of millions of dollars in added health care costs and economic opportunities forgone.

Very simply, this bill takes one step forward but three steps backward.

Mr. President, it pains me to say that I am not going to support this bill, because I believed for all of the years that I have been in the Senate that we do not invest enough in our highways, bridges, and our transportation system, in transit and in intercity rail. So I hate to be one of the people who is going to say no to this bill. But as the underlying legislation dictates, it says that we are going to take more away than we give.

It is painful to witness what has happened to what was a program intended to do our country some good. But when each of the interests raised their heads, we wound up taking care of a few at the expense of the many, and that is, unfortunately, what happened to the NHS bill which so many worked on so diligently for so many years.

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

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

Mr. WARNER. Mr. President, I am very optimistic that we will reach within the next few minutes final passage of this bill, and therefore I would like to give some closing remarks.

As we approach the end of our debate on the designation of the National Highway System, I am pleased to have a bill that will keep America moving, moving ahead with progress.

This is a big day. The National Highway System is intact and America will move forward with another very important chapter.

Last year, the Senate, under the able leadership of my colleague, Senator BAUCUS, passed a clean bill, that is, a bill with no demonstration projects. Today, and again this year, the Senate has spoken likewise—no projects. Let our States direct their funding on their own priorities, not those of the Congress.

Throughout these proceedings, my own goal has been simple: To see that this measure moved ahead in a timely manner to meet the deadline of September 30, 1995, to ensure the States would receive the $6.5 billion in National Highway System and interstate maintenance funds that they deserve.

With our actions today, we are well ahead of schedule.

But, Mr. President, I am concerned. While I applaud our inclusion of the zero alcohol tolerance, Mr. President, that noise does not disturb me. It is good noise. It is the noise of settlement. I accept it and tolerate it.

The PRESIDING OFFICER. We will, nonetheless, withhold so it will not interfere with the Senator giving his remarks.

Mr. WARNER. Mr. President, if I may continue, I would like to repeat myself. But I am concerned, Mr. President. I say that in all seriousness. While I applaud the Senate's inclusion of the ''zero alcohol tolerance'' for minors, I am concerned that the safety, which I strongly support, of the public may be placed in jeopardy as a result of the amendments to this bill; namely, the lifting of the Federal law on speed limits and opening the door for dual speed limits on trucks and automobiles.

States rights, a clarion call that I almost invariably support, prevailed throughout the debate on this bill. But the wisdom of experience failed to prevail. Experience has clearly demonstrated that uniform national speed limits reduce the daily tragic losses of life and limb and economic resources on our highways.

Likewise, experience has demonstrated that different speed limits for trucks and cars contribute to highway accidents. Our future, our fate now rests with the State legislators, not the Federal Government. States rights now means States responsibilities, as well as the burdens now on the individual States. Legislators of those States are now on the firing line. I urge them in the name of safety to hold the line. Speed can be as intoxicating as alcohol.

A future Congress, when ISTEA is reauthorized in 1997, will closely examine the results of our actions on this bill. I would hate to see the Congress once again on a roller coaster, enacting and repealing and enacting and then repealing these laws as the constant lobbying between the Congress and the States drives these legislative initiatives.

Mr. President, I would like to commend and thank the chairman of our committee, Senator CHAFEE, as well as the distinguished ranking member, Senator BAUCUS. They are both splendid working partners, and Senator BAUCUS has helped immeasurably as a full partner and as a manager with this Senator in seeing that this bill will be adopted.

With their strong support, this bill moved promptly through the committee to the floor. Their cooperation and skill may soon help me to complete action on this bill.

My colleagues on the Environment and Public Works Committee have also my great respect and appreciation for their commitment and their hard work.

I would also like to thank a very able professional staff for their efforts. From the beginning of our work to designate the National Highway System

there has been a great deal of cooperation on both sides of the aisle. So I thank Jean Lauver, Ann Loomis, Linda Jordan, Larry Dwyer, Ellen Stein, Tom Sliter, Kathy Ruffalo, Alex Washburn, and the one and only Steve Shimberg, staff director.

Mr. President, the National Highway System will, indeed, keep America moving toward our next generation of transportation challenges. For these reasons, I support the bill and urge my colleagues to vote for passage of this important legislation.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am pleased the Senate is nearing completion of S. 440, the National Highway System Destination Act of 1995. And I want to thank all my colleagues for their cooperation on this legislation. The passage of this legislation brings us a big step closer to the deadline we must meet of September 30, if we are to receive a very substantial distribution of some $6.5 billion—that is ''b'' for ''billion''—of needed highway funds.

And I want to commend the manager of the bill, the chairman of the Transportation and Infrastructure Subcommittee, Senator WARNER, for the wonderful job that he has done during the consideration of this legislation. He worked diligently to develop it and to secure the committee's approval by a vote of 15–1.

I also want to thank Senator BAUCUS as a member of the Environment and Public Works Committee, who is also ranking member of this subcommittee, for the excellent work that he has done on this bill. He has been very cooperative in moving it forward. In fact, he provided the leadership in beginning this process, as mentioned by Senator WARNER, in that Senator BAUCUS last year brought this legislation to the floor of the Senate. It passed, but unfortunately we were unable to reach an agreement with the House before Congress adjourned.

So I am pleased the Senate has approved the National Highway System as the Secretary of Transportation and the local and State officials presented it to us. I think this underlines the fact that the process to designate this system has worked well and resulted in a high degree of consensus among Federal and State and local officials.

Under this bill the cooperative process will continue. State and local officials, with the Secretary of Transportation's approval, will have the ability to continue to make changes in the National Highway System as long as the total mileage of 165,000 miles is not exceeded. This is a dynamic entity with which we are involved.

This legislation preserves the important principles that the Intermodal Surface Transportation Efficiency Act of 1991, the so-called ISTEA legislation, put in place, emphasizing flexibility. I regret that we were not able to provide the States more flexibility with respect to the Davis-Bacon provisions. As you know, it emerged from the committee with a revocation of the Davis-Bacon language as it pertained to highway construction. That was removed on the floor of the Senate due to the presence of a filibuster on that item. I hope we will be able to deal with this Davis-Bacon situation in the future.

I deeply regret that this legislation, in my judgment, represents a giant step backward in a particular area; that is, highway safety. I am extremely disappointed that the Senate made the decision to repeal the Federal speed limit as it pertains to automobiles. It was maintained as to trucks. That was a half a victory. As to automobiles, it was not maintained. And as for the motorcycle helmet requirements, they were repealed. Again, it was half a victory, if you would, or half a loss, in that of the two items, seatbelts and motorcycle helmets, the seatbelts were retained and the motorcycle helmet provision was repealed.

I think that is a bad decision and will result in extremely unfortunate consequences. I believe lives will be lost that could have been preserved otherwise. I believe there will be more serious injuries that could have been avoided. And I believe the cost to Federal and State governments will go up. But that is life. We had a long debate on it. There is no question that the will of the Senate was expressed. Nothing went through in the dark of night on that one. Everybody knew the issues and a vote was held. The vote was very, very clear to repeal the helmet provision.

I want to take this opportunity to thank the Secretary of Transportation, Mr. Peña, and Mr. Rodney Slater, the Administrator of the Federal Highway System. They did a splendid job in working with the States to develop this whole system. The system was adopted by the Senate as was proposed, as it came up to us. That is a testimony to the effective job that was done by the States and the Federal officials, particularly Mr. Slater, who has been very helpful to us not only during the designation of the National Highway System, but in the consideration of this measure on the floor, and his Deputy Administrator, Jane Garvey, and their staff. The staff they have was working with us over the past several days.

Finally, I want to join in thanks to the staff who worked on this legislation. On our side, Steve Shimberg, Jean Lauver, Ann Loomis, Linda Jordan, and Larry Dwyer. And for the Democratic side, Tom Sliter, Kathy Ruffalo, and Alice Washburn. All have been absolutely splendid. There is no question we rely to a great degree on them, because we have confidence in them built up over the years.

So I want to thank the Chair and thank all my colleagues for their assistance in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am pleased today the Senate is finally about to pass S. 440, the National Highway System Designation Act of 1995. I want to thank particularly the chairman, Senator CHAFEE, for his outstanding leadership, and also Senator WARNER, the chairman of the subcommittee, who has done an excellent job shepherding this bill to this point.

This is a critical bill for our States. Billions of dollars in highway funds are at stake. We need to enact this bill, and I remind my colleagues, by September 30; that is, passed by both Houses and signed into law. Otherwise, the State highway programs will be seriously disrupted.

I hope the House will take this bill up soon so we can resolve our differences and get a bill to the President by that deadline.

The National Highway System is the backbone of our transportation system today and the framework for its growth in the 21st century. The NHS is designed to have a seamless transportation network of roads that link all modes of transportation between airports, seaports, and rail yards with our population and economic centers. It will make our businesses more competitive in our global economy. And by choosing the most important roads, it will help States to determine the most appropriate transportation investments.

That is particularly true in the rural West, like Montana, where highways are often the only mode of transportation. Whether it is in the transporting of goods and services, traveling for family vacations, business, or taking our kids to college, our highways always play a vital role in our lives and our jobs. We do not have the mass transit or water transportation systems like other States have. So highways are critical to the lifeblood of our State's economy, which increasingly depends on travel and tourism, and it is our way of life.

The bill includes nearly 4,000 miles of roads in Montana. That is 23 percent or about 800 miles more than the Bush administration's original proposal. The additional routes include Highway 200 between Great Falls and Missoula, and from Lewistown going west to Winnett, Jordan, Circle, Sidney, and Fairview. Highway 12 from Helena to Garrison Junction; Highway 59 from Miles City to Broadus; Highway 87 between Billings, Roundup, and Grassrange; and Highway 212 from Crow Agency to Lame Deer and Alzada.

That is good news for Montana. And the other roads in the bill mean just as much for the entire region across the Great Plains and down the Rocky Mountains. All these roads are included in the bill the Senate is considering today.

Mr. President, this bill also makes major reforms by lessening the regulatory burdens on our States, giving

them more flexibility. It allows States to set their own speed limits for passenger cars and also repeals Federal mandates on motorcycle helmets, management systems, use of the metrics on highway signs, and crumb rubber. These are all good changes.

As I said before, this bill is not only in our State's interest, but in our national interest. It means jobs; it means growth. So I congratulate the chairmen of our committee and subcommittee for their leadership, for their diligence, and for their extreme patience in managing this bill. And I particularly want to thank the staffs on both sides, particularly on the minority side, Tom Sliter and Kathy Ruffalo, who have done a wonderful job; and on the majority side, Jean Lauver and Ann Loomis, who have done an equally good job.

Particularly at this point, Mr. President, I want to thank the Federal Highway Administrator, Rodney Slater. He has been here. He has been in the wings helping advise us. There were technical problems we had as amendments came up. Jane Garvey, who is the Deputy Administrator, has been just very valuable, along with other FHA staff, and I must say that were it not for their expertise, this legislation would be in pretty rough shape. Again, I thank all concerned, and again particularly the chairman, and the subcommittee chairman, Senator WARNER. They have done a great job.

Mr. WARNER. Mr. President, I thank my colleague for his kind remarks. I join him in acknowledging the positive, constructive contribution of the Administrator of the Federal Highway Administration. Indeed, he has been here keeping watch, and any Senator could speak with him at any time. He has done an excellent job, a very, very commendable job for this Nation.

I see the distinguished Senator from Oklahoma. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1466

(Purpose: To permit States to use assistance provided under the mass transit account of the highway trust fund for capital improvements to, and operating support for, intercity passenger rail service)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1466.

Mr. NICKLES. 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:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.''.

Mr. NICKLES. Mr. President, one, I wish to thank my colleagues, Senator WARNER and Senator BAUCUS, as well as Senator D'AMATO and Senator SARBANES, for their supporting this amendment and cooperating with us in the drafting of this amendment.

This amendment, basically, would allow States to use their mass transit funds to subsidize Amtrak. Many States, as you know, have had reductions in Amtrak. There happen to be 3 States in the lower 48 that do not have Amtrak. We have narrowed this amendment to apply to those three States that do not have Amtrak where they could use mass transit funds to subsidize Amtrak acquisition.

I am pleased this amendment is supported. This will help us in our State to regain Amtrak. We are the only State in the Nation that has had Amtrak and lost it. It will allow us to use mass transit—we only receive $3 million now, we contribute $30 million but only get $3 million back—this will allow us to use part of that money to subsidize Amtrak and bring about the day when we have restoration of Amtrak in my State.

I wish to compliment my colleagues for management of this bill. They have shown great patience and forbearance. A lot had different ideas.

I introduced legislation some time ago to allow the States to set speed limits, thereby repealing the Federal national speed limit. That was adopted by this body. I think it is a giant step in the right direction. I am pleased it is part of this package. I look forward to the final action and completion of this bill.

Mr. BAUCUS. Mr. President, the substance of this amendment is, frankly, not within the jurisdiction of this committee. Rather, it is in the jurisdiction of the Banking Committee. I have been in contact with Senator SARBANES, who is the ranking member of the Banking Committee. I have been assured he agrees with this amendment and has no problem with it.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1466) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, many commendations have been paid to the managers of the bill. I also would like to pay a commendation to the distinguished majority leader and the Democratic leader who have given us full, complete support and, indeed, has shown great patience and indulgence in the last hour and a half as we bring this matter to a close.

Mr. President, there is one remaining matter.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join in saying we are happy the highway bill is being passed. As one who has a very pressing problem, I know this bill presents an opportunity to raise an issue and have it decided by the Congress and have it to the President next week. I see nothing wrong with that. That is part of the history of the Senate. In a few minutes, we may work out a situation—or we will postpone the decision—but we cannot work it out now and, as far as I am concerned, we will stay on this bill until we can get a decision from the Senate as to whether we are right about this issue.

So let me respond to my friend from Rhode Island—and he is my friend—Senator CHAFEE and I stood behind one another in the line going into law school more than 50 years ago, Mr. President, so we know each other very well.

We do have some differences. I have heard my friend talk about the fact that there is a limit of 165,000 miles in the Interstate Highway System. How would you like to be from a State one-fifth the size of the United States and have a thousand of those miles, Mr. President, and have the post office keep telling you, ''You have to find some way to deliver the mail up here, we can't pay the subsidy for flying mail?'' Then you find that Federal agencies are denying you the right to use rights-of-way across Federal lands that were developed by the miners in 1866 and have been used since that time.

What happened? In 1976, we decided that we would repeal revised statute 2477, which provided every State in the West the right to use established, public rights-of-way across Federal lands as continued rights-of-way for use by the public. They became the basis for the State highways, the Federal highways and the interstate highways in what we call the south 48.

Has that happened in Alaska? No. Why? Because of arrogant bureaucrats.

In 1976, we passed a law which absolutely stated, without any question, that the action of Congress in repealing the revised statute 2477 would not affect our rights-of-way that had been established prior to 1976. That law said in section 701(a), which was signed on October 21, 1976:

Nothing in this act or in any amendment made by this act shall be construed as terminating any valid lease, permit, patent, right-

of-way or other land use right or authorization existing on the date of approval of this act.

We interpreted that in past Congresses and past administrations have interpreted that to mean that the rights-of-way that were established pursuant to State law before 1976 were valid, if the State determined they were valid.

As a matter of fact, there have been specific holdings by the Federal courts of appeals, particularly the Ninth Circuit Court of Appeals, that those rights-of-way were to be established and determined on the basis of State law.

Now the Department of the Interior says, ''Oh, wait a minute now, we have established since 1976 a whole series of wilderness areas, and in those wilderness areas are some of these rights-of-way which, in fact, access privately held lands, Native-held lands, and State-held lands in our State. Other States have similar problems.

I want to point out, Utah has the greatest problem of all the Western States as far as the Bureau of Land Management is concerned. The last schedule I saw showed they had 3,815 claims pending to be validated. Validated by whom? There is no administrative process required to validate these claims. Now the Department of the Interior says they are going to determine whether these rights-of-way are valid. This is not what we said in 1976. If they were valid in 1976 under State law, they were to be valid forever.

The language was very simple—very simple. Congress said in 1866:

The right-of-way for the construction of highways over public lands not reserved for public uses is hereby granted.

That became revised statute 2477. It was part of the original highway act of the United States. The managers of the bill are saying, ''What are you doing out on the floor raising this now?'' This is part of the highway system. The highway system in the western United States came into being because of revised statute 2477. And now in my State, unfortunately in other States now, the Department of the Interior has decided it is going to determine what is valid, and why? Because it has made reservations of lands since 1976 that it says have validity and have prior rights over the rights established by the people of those States over Federal lands before that date.

This to me is not a simple issue. My distinguished friend, Senator MURKOWSKI, the other Senator from Alaska, is here and he knows just how important this is. It is a matter that we both have tried to figure out what to do with.

We have no way to have construction of the highways proceed that we get money for under this bill if the Department of the Interior is to tell us that the rights-of-way we are going to use now are subject to their interpretation of whether they are valid or not.

To me it is a simple matter of States rights. But it goes beyond States rights. It is the incessant determination of people downtown to try to reverse a decision that the Congress made in 1958 when it allowed Alaska to become a State. If we are a State, we should have the same rights as the other States did under this statute, and in 1976 we preserved that. I helped work on that section. We wanted to make sure we had the rights that were there. We knew we were not going to establish any new rights across Federal lands after that time, but certainly the rights we had established prior to that time were valid pursuant to State law, and there is no question that they continue to be the basic right for the expansion of the highway system in Alaska and other western States.

Someone said to me once, ''Why do you worry about that? Is there that much Federal land out there?'' I just wish more people would come up and see the amount of Federal land we have in Alaska. You cannot get anywhere in Alaska without crossing Federal land. The Federal Government controls access to almost every piece of land that is in private, State, or Native ownership in Alaska.

Now, I do believe that there is no question about it that there are a lot of forces out there which, if they had their way now, would reverse statehood. They would take away from us the right to be a State. Not having that ability, what they do is take away from us the right to have the same access to our land mass that other States in the lower 48 have had.

The Interior Department has now come up with some very narrow terms to define ''highways'' for the purpose of revised statute 2477. That is none of their business. Our rights existed in 1976 or they do not exist at all today. But if they existed in 1976, no Secretary of the Interior is going to tell me what those rights were or what they are going to allow us to claim today. We had the right in 1976 and he has no business being involved in this.

I know that there are very powerful groups in this country that would like to find ways to invalidate those claims. And in the past these groups have taken the claims to court. These groups have lost, because a right established prior to 1976 for public access across Federal lands continues to be our right.

Alaska law defines highways in terms of roads, streets, trails, walkways, bridges, tunnels, drainage structures, ferry systems, and other related facilities. Obviously, nobody is going to get in our way on ferry systems. We have the right to navigable waters.

Protection of the RS 2477 grant of right-of-way is essential to the preservation of statehood for my State. And it is one of the reasons that I come to this floor at times just a little bit excited, because I do not believe many people take much time to learn much about our State. You crisscross the continental United States, but not many of you even come to our State. When you do, we welcome you, we are pleased to have you. But you do not take much time to learn some of the problems that exist there. Our problem is transportation, transportation, transportation. We have to have access to our lands.

There is one other item I will mention to the Senate. When we were seeking statehood, we first sought 30, 40 million acres of land. Congress at that time kept saying: But you cannot survive as a State unless you have more land. You have to have a land base in order to survive. So we ended up by getting the right to use 103.5 million acres of Federal lands as State lands.

Mr. President, having received the right to select 103.5 million acres of the Federal domain in Alaska, we proceeded to do that. Our rights pertain to Federal lands that were vacant, unreserved, and unappropriated as of 1959. A subsequent Congress decided that there ought to be a limitation on our rights. So we had a process which lasted about 7 years and led to the enactment of a law in 1980, the Alaska National Interest Land Claims Act, which withdrew a substantial amount of lands that were vacant, unappropriated, and unreserved in 1959. In effect, they took away from us the right to select a portion of the lands that we originally had the right to consider in exercising rights under the Statehood Act. Similarly, the Alaska Natives received some 40-plus million acres in settlement of their historic claims against the United States, and some of those lands were to be taken from vacant unappropriated, unreserved lands. And they also were faced with the prospect of having to select lands that were not reserved, because the Congress had reserved lands.

We ended up by selecting lands that were less valuable, did not contain minerals, and were not timbered. Most of the valuable lands of Alaska was set aside and not available to either the State or the Natives, as originally intended. That is going to lead, in my opinion, to a historic lawsuit by my State against the Federal Government. I am informed we must complete our land selections before we can bring that case. But I do think it is a valid case against the United States. And the perpetrators of the wrong were right here on the floor of the Senate. Some of them continue to be here, Mr. President. Some Members of the Senate continue to try to deny Alaska access to the lands that Congress gave us a right to when we became a State, in order to try and support the new State.

Now, we come down to 1976 when we decided to repeal revised statute 2477. Mr. President, without that law, the West would never have been settled. Without that law, we would not have the Interstate Highway System. Without that law, we would not really have the unity we have as a nation.

Now, it is sad, in my opinion, to see this penchant of some members of our society to deny our new State the same rights, to say that we have no right to

establish a network of highways in our State. As I said, we have one major highway in our State. It is the system that connects Alaska to Canada. It goes from Seward, AK, up to Fairbanks, and out to the border.

I see the leader here. I will yield.

Mr. DOLE. I wonder if we can move on to the next bill and not, in any way, undercut any of the rights of any of the Senators. As soon as you get the language and agreement, we can come back to this bill. In the meantime, let us go ahead and start the other bill, the securities litigation bill. And then, hopefully, you will have the language. The first vote would be on this, back-to-back with final passage of this bill, plus the amendment on litigation.

Mr. STEVENS. I might say to my friend, we had an agreement last night that I would have the opportunity to offer an amendment to this bill. Now there has been a suggestion that we have an amendment that is being reviewed by the Senator from Arkansas, as I understand it. That would delay the urgency of this amendment of mine. I am happy to agree to cooperate with our leader at any time. I would not want to see us be put in the position that we are limited as to what we might do when we get back on this bill.

Mr. DOLE. I assume, in talking with Senator BUMPERS, it is something everybody can agree on. You can offer the amendment when we bring the bill up. If it is not satisfactory, you can do what you want. In the meantime, we can go ahead with the litigation bill. When you have it worked out——

Mr. STEVENS. There may be more amendments before we are through.

Mr. DOLE. Well, amendment or amendments.

Mr. STEVENS. Under the circumstances, I am happy to continue my comments at a later time, if the leader wishes to go on the other bill at this time.

Mr. BAUCUS. Mr. President, if the majority leader will yield, it is my understanding that the amendment has been agreed to.

Mr. STEVENS. That was this Senator's understanding, too, but that is not the case.

Mr. MURKOWSKI. Mr. President, we are currently waiting to hear from Senator BUMPERS with regard to the pending agreement. I assume that he will be forthcoming.

Mr. STEVENS. If my colleague will yield, we have not been able to check that out with the Senator from Utah because we have not seen the final version that is agreeable to Senator BUMPERS yet.

The leader is right. There is nothing we can move ahead on now. That is why this Senator is venting a little air, to try to make people understand why we feel so strongly about this amendment.

Mr. BAUCUS. I wonder, Mr. President, if the majority leader will yield, if we can wait maybe 1 minute here. There is a possibility we can get this cleared right now.

Mr. DOLE. Then it has to be reviewed by the Senator from Utah.

Mr. BAUCUS. If we could just withhold for a few more minutes? Maybe the other Senator from Alaska could speak for just a few more minutes. We are just that close to getting this thing wrapped up. I would want to do it now rather than later.

Mr. DOLE. We were going to move on to something else at 3:30. Now it is 4:30. I would like to finish the bill. I know the managers would. They have done an excellent job. I certainly want to accommodate the Senators from Alaska. I understood the Senator from Arkansas, Senator BUMPERS, thought he had a satisfactory resolution.

Mr. BAUCUS. Mr. President, if the Senator will again yield, it is my understanding Senator BUMPERS has not yet personally seen the language and he does want to see it.

Mr. DOLE. That could take a while and we could be halfway down the trail on the litigation bill. As soon as it is worked out, we will come right back and finish it. I am not going to lay it aside for a day or even an hour. We will come back, finish it, get the yeas and nays on final passage and have that vote occur along with the first vote on any amendment on the litigation bill. Is that right?

Mr. BAUCUS. Fine.

Mr. MURKOWSKI. Mr. President, I wonder if I could inquire of the manager and the leader, if, indeed, it is set aside and not taken up for a time, if Senator STEVENS and I may have a time to be recognized at that time certain, right after the leader calls up the bill? I wonder if the leader could indicate when he intends to do that?

Mr. DOLE. I think what we would do is make certain you have agreed or disagreed on whatever has been offered. Both Alaska Senators are on the floor, obviously, and the Senator from Utah——

Mr. STEVENS. If I may interrupt, the Senator from Utah has as great a stake or greater in the immediate outcome. We have been willing to clear this with them, but we have not been able to get an agreed version yet on this tentative moratorium.

Will the leader yield to the Senator from Utah so he might get involved in this, Mr. Leader?

Mr. DOLE. Yes.

Mr. BENNETT. I have just had a quick opportunity to review this. Clearly I will want to talk to my senior colleague, Senator HATCH. But my first reaction to this is that this would be agreeable. It would delay the implementation, as I understand it, of the present rules until December and give us that much more time to try to work things out with the Department of the Interior.

Our Governor made it clear to Secretary Babbitt that the proposals, as they currently stand, are not acceptable and cannot be fixed. We have to start completely from scratch. So that is the position we have taken and I take on behalf of the Governor.

But I obviously want to check with Senator HATCH before I give a final signoff on this issue.

Mr. STEVENS. Mr. President, does the leader still have the floor?

The PRESIDING OFFICER. The leader has the floor.

Mr. DOLE. I think from what I see developing here, it is just going to take a little time. I think it can be worked out. But if we need to contact the senior Senator from Utah, Senator HATCH, and the Senator from Arkansas, Senator BUMPERS, I know that is not going to happen in 2 minutes or 5 minutes or 30 minutes. In the meantime, we could be started on the litigation bill. Then, as soon as you get the agreement, we can come back to this bill, wrap it up, and have a vote on final passage.

Mr. STEVENS. The question is, if we do not get the agreement, do we have the understanding this will come back and be the regular order after we finish the securities bill?

Mr. DOLE. That is right.

Mr. STEVENS. I would have no objection to that proceeding.

Mr. MURKOWSKI. Then, if I could ask the leader again, roughly, he anticipates being back on the securities bill on Monday?

Mr. DOLE. Yes. We hope to finish the bill tomorrow night. If not, we will be on it Monday. But we could finish this bill, the present bill, before then, in particular if we get an agreement.

Mr. MURKOWSKI. Mr. President, if the leader gets an agreement, then it is my understanding that he will potentially come back to this bill, the highway bill, at which time we would be recognized and pursue our amendments with no time limitation and try to resolve the differences that we currently have been unable to clear. Then there would be final passage. Is that correct?

Mr. DOLE. But if you can reach agreement with all parties and it can be done very quickly, we will do it at any time you get the agreement, like 30 minutes from now or an hour from now or 2 hours from now.

Mr. MURKOWSKI. Mr. President, we should know very soon.

Mr. DOLE. Right. That is what they told me at 3:30. Let me get the consent. There will be one additional amendment here and then we will go on.

Let me ask unanimous consent that the Senate, after adoption of the managers' amendment, turn to the consideration of Calendar 128, S. 240, the securities litigation bill, and that no call for the regular order bring back S. 440 except one call by the majority leader after consultation with the Democratic leader.

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

Mr. DOLE. I further ask, when the Senate resumes S. 440, the only amendments remaining in order to the committee substitute be the following: They are going to offer the managers' amendment, and then the only following amendment would be the Stevens-Murkowski amendment or amendments. And that would also include the

Senators from Utah, Senator BENNETT and Senator HATCH.

Mr. WARNER. Mr. President, reserving the right to object, I shall not. We also have an understanding that the closing statements of the managers appear in the RECORD as the last.

Mr. DOLE. I did get consent you could offer the managers' amendment right now.

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

AMENDMENT NO. 1464, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a technical amendment to be added to the managers' amendment.

Mr. STEVENS. Has the agreement been entered into?

The PRESIDING OFFICER. Yes, it has. Without objection, the agreement is entered into.

Mr. WARNER. Mr. President, this is a technical amendment which includes the State of Maine as covered by the amendment of the Senator from New Hampshire.

I ask that it be accepted. It is to a previously agreed to amendment.

The PRESIDING OFFICER. Without objection, amendment No. 1464 is modified and is agreed to in that form.

The amendment (No. 1464), as modified, was agreed to, as follows:

At the appropriate place in the bill add the following new section:

SEC. .

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

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

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

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MEMBERS OF THE CHILEAN SENATE

Mr. DODD. Mr. President, I wanted to take a moment, if I could, to say that we just had a very wonderful opportunity in the Senate Foreign Relations Committee room to have a very healthy and productive discussion with a group of our colleagues, Senators from Chile, who are here in the United States, to meet with their counterparts in the Senate and some Members of the House and the administration on a variety of subject matters, not the least of which—and it will not come as a great surprise—is NAFTA.

I know many colleagues share the view that Chile would be a welcome partner in the NAFTA agreements. That is a matter we will address in the future.

I would like to take this opportunity to introduce to my distinguished colleagues four Members of the Chilean Senate. With us today are Senator Arturo Allessandri, Senator Sebastian Pinera, Senator Hernan Larrain, and Senator Jaime Gazmuri.

We are pleased to welcome four of our colleagues from Chile to the U.S. Senate. We are delighted you are here on an important visit to our country.

[Applause]

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Private Securities Litigation Reform Act of 1995''.

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

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.
Sec. 102. Securities class action reform.
Sec. 103. Sanctions for abusive litigation.
Sec. 104. Requirements for securities fraud actions.
Sec. 105. Safe harbor for forward-looking statements.
Sec. 106. Written interrogatories.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Authority of Commission to prosecute aiding and abetting.
Sec. 109. Loss causation.
Sec. 110. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.
Sec. 202. Proportionate liability.
Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

''(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.''.

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.''.

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

''(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.''.

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

''(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

''(2) CERTIFICATION FILED WITH COMPLAINTS.—

''(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

''(i) states that the plaintiff has reviewed the complaint and authorized its filing;

''(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order

to participate in any private action arising under this title;

''(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

''(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

''(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

''(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

''(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

''(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

''(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

''(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

''(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

''(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

''(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

''(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

''(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

''(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

''(F) OTHER INFORMATION.—Such other information as may be required by the court.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(j) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

''(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

''(2) CERTIFICATION FILED WITH COMPLAINTS.—

''(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

''(i) states that the plaintiff has reviewed the complaint and authorized its filing;

''(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

''(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

''(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

''(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

''(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

''(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

''(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award to any representative party serving on behalf of a class of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

''(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

''(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

''(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

''(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

''(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

''(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

''(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

''(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

''(F) OTHER INFORMATION.—Such other information as may be required by the court.''.

(b) APPOINTMENT OF LEAD PLAINTIFF.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(i) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

''(1) EARLY NOTICE TO CLASS MEMBERS.—

''(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or

plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

''(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

''(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

''(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

''(2) APPOINTMENT OF LEAD PLAINTIFF.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

''(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

''(C) REBUTTABLE PRESUMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

''(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

''(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

''(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

''(I) will not fairly and adequately protect the interests of the class; or

''(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

''(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

''(I) may not be conducted by any defendant; and

''(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

''(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new subsection:

''(k) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

''(1) EARLY NOTICE TO CLASS MEMBERS.—

''(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

''(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

''(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

''(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

''(2) APPOINTMENT OF LEAD PLAINTIFF.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

''(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

''(C) REBUTTABLE PRESUMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

''(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

''(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

''(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

''(I) will not fairly and adequately protect the interests of the class; or

''(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

''(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

''(I) may not be conducted by any defendant; and

''(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

''(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.''.

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) SANCTIONS FOR ABUSIVE LITIGATION.—

''(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

''(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure.

''(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(l) SANCTIONS FOR ABUSIVE LITIGATION.—

''(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

''(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions in accordance with Rule 11 of the Federal Rules of Civil Procedure on such party or attorney.

''(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems

appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.''.

SEC. 104. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

(a) SECURITIES ACT OF 1933.—

(1) STAY OF DISCOVERY.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(k) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.''.

(2) PRESERVATION OF EVIDENCE.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(l) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 36. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

''(a) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

''(1) made an untrue statement of a material fact; or

''(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

''(b) REQUIRED STATE OF MIND.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

''(c) MOTION TO DISMISS; STAY OF DISCOVERY.—

''(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of subsections (a) and (b) are not met.

''(2) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

''(3) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.

''(d) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission alleged to violate this title caused any loss incurred by the plaintiff. Damages arising from such loss may be mitigated upon a showing by the defendant that factors unrelated to such act or omission contributed to the loss.''.

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 13 the following new section:

''SEC. 13A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) SAFE HARBOR.—

''(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

''(A) projects, estimates, or describes future events; and

''(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

''(i) such projections, estimates, or descriptions as forward-looking statements; and

''(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

''(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

''(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

''(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

''(2) a statement of the plans and objectives of management for future operations;

''(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

''(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

''(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

''(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

''(1) knowingly made with the expectation, purpose, and actual intent of misleading investors;

''(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

''(A) has been, during the 3-year period preceding the date on which the statement was first made, convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B), or has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

''(i) prohibits future violations of the anti-fraud provisions of the securities laws, as that term is defined in section 3 of the Securities Exchange Act of 1934;

''(ii) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

''(iii) determines that the issuer violated the anti-fraud provisions of the securities laws;

''(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

''(C) issues penny stock, as that term is defined in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules, regulations, or orders issued pursuant to that section;

''(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

''(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934; or

''(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

''(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

''(B) contained in a registration statement of, or otherwise issued by, an investment company, as that term is defined in section 3(a) of the Investment Company Act of 1940;

''(C) made in connection with a tender offer;

''(D) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

''(E) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

''(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

''(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

''(2) the exemption provided for in this section precludes a claim for relief.

''(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

''(f) COMMISSION DISGORGEMENT ACTIONS.—

''(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

''(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment

of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement.

''(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) SAFE HARBOR.—

''(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

''(A) projects, estimates, or describes future events; and

''(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

''(i) such projections, estimates, or descriptions as forward-looking statements; and

''(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

''(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

''(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

''(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

''(2) a statement of the plans and objectives of management for future operations;

''(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

''(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

''(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

''(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

''(1) knowingly made with the expectation, purpose, and actual intent of misleading investors;

''(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

''(A) has been, during the 3-year period preceding the date on which the statement was first made, convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B), or has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

''(i) prohibits future violations of the anti-fraud provisions of the securities laws;

''(ii) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

''(iii) determines that the issuer violated the anti-fraud provisions of the securities laws;

''(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

''(C) issues penny stock;

''(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

''(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e); or

''(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

''(A) included in financial statements prepared in accordance with generally accepted accounting principles;

''(B) contained in a registration statement of, or otherwise issued by, an investment company;

''(C) made in connection with a tender offer;

''(D) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

''(E) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

''(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

''(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

''(2) the exemption provided for in this section precludes a claim for relief.

''(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

''(f) COMMISSION DISGORGEMENT ACTIONS.—

''(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

''(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement.

''(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a–24) is amended by adding at the end the following new subsection:

''(g) REGULATORY AUTHORITY FOR FORWARD-LOOKING STATEMENTS.—

''(1) IN GENERAL.—The Commission shall review and, if necessary to carry out the purposes of this title, promulgate such rules and regulations as may be necessary to describe conduct with respect to the making of forward-looking statements that the Commission deems does not provide a basis for liability in any private action arising under this title.

''(2) REQUIREMENTS.—A rule or regulation promulgated under paragraph (1) shall—

''(A) include clear and objective guidance that the Commission finds sufficient for the protection of investors;

''(B) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities; and

''(C) provide that forward-looking statements that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 shall be deemed not to be in violation of this title.

''(3) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this subsection limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.''.

SEC. 106. WRITTEN INTERROGATORIES.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.''.

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period '', except that no person may rely upon conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962''.

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

''LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS''; AND

(2) by adding at the end the following new subsection:

''(e) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under paragraph (1) or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation issued under this title, shall be—

''(1) deemed to be in violation of such provision; and

''(2) liable to the same extent as the person to whom such assistance is provided.''.

SEC. 109. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Any person'';

(2) by inserting '', subject to subsection (b),'' after ''shall be liable''; and

(3) by adding at the end the following:

''(b) LOSS CAUSATION.—In an action described in subsection (a)(2), the liability of the person who offers or sells such security shall be limited to damages if that person proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, and such portion or all of such amount shall not be recoverable.''.

SEC. 110. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933 commenced before the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. LIMITATION ON DAMAGES.

Section 36 of the Securities Exchange Act of 1934, as added by section 104 of this Act, is amended by adding at the end the following new subsection:

''(e) LIMITATION ON DAMAGES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in any private action arising under this title, the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the value of that security, as measured by the median trading price of that security, during the 90-day period beginning on the date on which the information correcting the misstatement or omission is disseminated to the market.

''(2) EXCEPTION.—In any private action arising under this title in which damages are sought, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the median market value of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.''.

SEC. 202. PROPORTIONATE LIABILITY.

Title I of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 38. PROPORTIONATE LIABILITY.

''(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in any private action arising under this title. Nothing in this section shall affect the standards for liability associated with any private action arising under this title.

''(b) LIABILITY FOR DAMAGES.—

''(1) JOINT AND SEVERAL LIABILITY.—A person against whom a judgment is entered in any private action arising under this title shall be liable for damages jointly and severally only if the trier of fact specifically determines that such person committed knowing securities fraud.

''(2) PROPORTIONATE LIABILITY.—Except as provided in paragraph (1), a person against whom a judgment is entered in any private action arising under this title shall be liable solely for the portion of the judgment that corresponds to that person's degree of responsibility, as determined under subsection (c).

''(3) KNOWING SECURITIES FRAUD.—For purposes of this section—

''(A) a defendant engages in 'knowing securities fraud' if that defendant—

''(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the material representations of the defendant is false; and

''(ii) actually knows that persons are likely to rely on that misrepresentation or omission; and

''(B) reckless conduct by the defendant shall not be construed to constitute knowing securities fraud.

''(c) DETERMINATION OF RESPONSIBILITY.—

''(1) IN GENERAL.—In any private action arising under this title in which more than 1 person is alleged to have violated a provision of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning—

''(A) the percentage of responsibility of each of the defendants and of each of the other persons alleged by any of the parties to have caused or contributed to the violation, including persons who have entered into settlements with the plaintiff or plaintiffs, measured as a percentage of the total fault of all persons who caused or contributed to the violation; and

''(B) whether such defendant committed knowing securities fraud.

''(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the damages sustained by the plaintiff or plaintiffs.

''(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

''(A) the nature of the conduct of each person; and

''(B) the nature and extent of the causal relationship between that conduct and the damages incurred by the plaintiff or plaintiffs.

''(d) UNCOLLECTIBLE SHARE.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(2), in any private action arising under this title, if, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the judgment is not collectible against that defendant or against a defendant described in subsection (b)(1), each defendant described in subsection (b)(2) shall be liable for the uncollectible share as follows:

''(A) PERCENTAGE OF NET WORTH.—Each defendant shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

''(i) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net financial worth of the plaintiff; and

''(ii) the net financial worth of the plaintiff is equal to less than $200,000.

''(B) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subparagraph (A), each defendant shall be liable for the uncollectible share in proportion to the percentage of responsibility of that defendant, except that the total liability under this subparagraph may not exceed 50 percent of the proportionate share of that defendant, as determined under subsection (c)(2).

''(2) OVERALL LIMIT.—In no case shall the total payments required pursuant to paragraph (1) exceed the amount of the uncollectible share.

''(3) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

''(e) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to subsection (d), that defendant may recover contribution—

''(1) from the defendant originally liable to make the payment;

''(2) from any defendant liable jointly and severally pursuant to subsection (b)(1);

''(3) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

''(4) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

''(f) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b) and (c) and the procedure for reallocation of uncollectible shares under subsection (d) shall not be disclosed to members of the jury.

''(g) SETTLEMENT DISCHARGE.—

''(1) IN GENERAL.—A defendant who settles any private action arising under this title at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution arising out of the action—

''(A) by any person against the settling defendant; and

''(B) by the settling defendant against any person, other than a person whose liability has been extinguished by the settlement of the settling defendant.

''(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

''(A) an amount that corresponds to the percentage of responsibility of that person; or

''(B) the amount paid to the plaintiff by that person.

''(h) CONTRIBUTION.—A person who becomes liable for damages in any private action arising under this title may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

''(i) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in any private action arising under this title determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d) may be brought not later than 6 months after the date on which such payment was made.''.

SEC. 203. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 commenced before the date of enactment of this Act.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

''SEC. 10A. AUDIT REQUIREMENTS.

''(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an

issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

''(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

''(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

''(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

''(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(A)(i) determine whether it is likely that an illegal act has occurred; and

''(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

''(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

''(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

''(A) the illegal act has a material effect on the financial statements of the issuer;

''(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement;

the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

''(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

''(A) resign from the engagement; or

''(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

''(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

''(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

''(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

''(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

''(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.''.

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, S. 240, the Private Securities Litigation Reform Act of 1995, is the bill we take up today. There is no doubt that this bill is considered by some to be rather contentious. But this legislation is important and necessary to fix the problem caused by frivolous lawsuits that are making it difficult for companies to raise the capital needed to fuel our economy.

This bill seeks to strike the right balance, which is always difficult, between protecting the rights of those who are truly aggrieved and yet not opening the door to frivolous litigation. This legislation is necessary as there has developed a small but very effective cadre of lawyers who bring suits not to help recover losses for those who are truly aggrieved but because they see an opportunity to strike it rich for themselves.

There is a term for this kind of lawsuit, they are called ''strike suits.'' A strike suit occurs when a lawyer searches very carefully for negative news announcements by a company or a decline in a company stock price. Then these lawyers race to the courthouse to file a suit alleging securities frauds, alleging mismanagement, or misinformation. I look to my colleagues on the floor from Alaska for an analogy—there is gold in the hills if a firm offers a security. There are lawyers who are mining that gold for themselves. Sometimes, even if a stock price goes up, lawyers will race to bring suits because they allege that they were not given information that this company would have higher earnings than anticipated. Imagine. If there is bad news, you are vulnerable. If there is good news, you are vulnerable.

Mr. President, the purpose of the courts and the American judicial system is not to make these lawyers rich. It is to legitimately protect those who have been aggrieved; those who have been taken advantage of, who have suffered due to fraud, or who have suffered due to the deliberate withholding of information or insider trading.

The question is not should these suits be stopped. The contentious nature of this legislation comes from the question of how to protect the rights of our citizens and the integrity of the capital markets to assure there is not insider trading, taking advantage of information, withholding information, or misrepresenting facts to steal people's money, and at the same time protect companies from strike suits.

Let me first commend my distinguished colleagues, Senators DOMENICI and DODD, for their tireless work in spearheading the effort to reform securities litigation. I also want to thank Senator GRAMM for his leadership on this issue as chairman of the Securities Subcommittee.

Over the past 2 years, the Banking Committee has heard substantial testimony that certain lawyers file frivolous strike suits alleging violations of Federal securities laws in hopes that defendants will quickly settle. These suits, which unnecessarily interfere with, and increase the cost of, raising capital, are often based on nothing more than a company's announcement of bad news, not evidence of fraud. In addition, the fact that many of these lawsuits are brought as class actions has produced an in terrorem effect on corporate America.

S. 240 provides a strong disincentive for filing abusive lawsuits. It hits strike suit artists where it hurts—in the pocketbook. S. 240 does not contain a loser-pays provision. That would go too far. A loser-pays provision makes it difficult, if not impossible, for injured investors to maintain a legitimate cause of action.

Instead, the bill requires courts to make specific findings about whether an attorney violated rule 11 and to sanction attorneys who do.

One study showed that, in the early 1980's every company in one part of the business sector that had a market loss of $20 million or more in its capitalization was sued. Another survey of venture-backed companies in existence for less than 10 years—small companies that are the engine of economic growth—showed that one in six of

those companies had been sued at least once.

These lawsuits are expensive. The statistics show that although many suits are still pending, these suits have consumed on average over 1,000 hours of management time and legal cost—per case—of over $690,000 that the company has had to pay out. That is a lot of time and that is a lot of money.

Does Congress want to let this trend continue? This Senator cannot sit idly by and permit small businesses to be the target of abusive lawsuits. Most of these companies are startup or high-technology businesses, which play an important role in our economy. These businesses provide new, innovative products to consumers, improving the quality of life and the way we conduct business.

Small startup, high-technology firms depend on research and development for their new products. As products succeed, fail, or sometimes just take longer to develop, the stock price of these companies may fluctuate. This stock price fluctuation or product development slowdown is not, on its face, evidence of fraud. Yet, in many States, alleging that a product did not succeed and the price of the company's stock dropped is enough to sustain a complaint in a securities fraud lawsuit.

S. 240 creates a uniform pleading standard that will help to weed out frivolous complaints before companies must pay heavy legal bills. S. 240, codifies the pleading standard of the second circuit in New York, which requires that a plaintiff plead facts giving rise to a strong inference of the defendant's fraudulent intent.

Small, startup, and high-technology companies have become sitting ducks for securities fraud lawsuits. The costs of defending a securities fraud complaint, which does not have to show any evidence of fraud, is enormous. According to the American Electronics Association, who testified at one of the committee's hearings, of the 300 or so lawsuits filed every year, almost 93 percent settle at an average settlement cost of $8.6 million.

Furthermore, it is not just the company that is sued. Other, peripheral, deep-pocket defendants are joined to ensure there is enough money available to produce a meaningful recovery. As a result, underwriters, lawyers, accountants, and other professionals have become prime targets of securities fraud lawsuits. Insurance companies that provide director and officer liability insurance also pay up in these settlements. In 1994 alone, insurers and companies paid out $1.4 billion to settle securities fraud lawsuits.

Mr. President, this is not to say that some of those suits may not have been bona fide. But all too often companies are paying simply to stop the litigation because they cannot afford the legal bills or they cannot afford the incredible negative exposure that a case can bring, especially under the system of joint and several liability.

S. 240 modifies the doctrine of joint and several liability for peripheral defendants, who are named in the lawsuit more for their deep pockets than their culpability.

In the current system, if you have any connection to the defendant companies, if they can tie you in at all, you can be held liable for the full amount of the judgment. Even that defendant who has only a scintilla of liability for wrongdoing, or culpability or negligence—not gross negligence, not knowing or wanton misconduct, not fraud—has a chance of being held 100 percent liable for damages. That is just not fair. That is wrong.

Who benefits from these settlements? Not the plaintiffs. According to the statistics, the victims of these so-called frauds generally get pennies on the dollar. They are just being used.

Not only is this unfair, but often the investors do not understand exactly what the settlement represents, what their portion of the settlement is, or why the lawyers even recommended the settlement.

S. 240 requires that certain information be provided to class members and that counsel be available to answer questions about the settlement.

No longer will attorneys be able to make a settlement for $6 million, $7 million, and not properly inform the people in the class. Nor will the attorneys be able to pocket most of the settlement while class members receive pennies for their losses.

As one witness told the committee, and I quote:

> As a stockholder, I feel that lawyers use the stockholders as a steppingstone, preying on their misfortune, as a means to file a lawsuit that will inevitably settle, in which the lawyers will reap millions in fees while their clients recover pennies on the dollar in their losses.

S. 240 limits the award of the attorney's fees to a ''reasonable'' percentage of the damages awarded to investors. Notably, it is the investors who end up paying the costs of these lawsuits.

Institutional investors, with about $9.5 trillion in assets, approximately $4.5 trillion of which are pension funds, are long-term investors. This means that the value of retirees' pension fund investments are adversely affected by abusive litigation. As the Council for Institutional Investors advised the committee, and I quote:

> We are . . . hurt if the system allows someone to force us to spend huge sums of money in legal costs by merely paying ten dollars and filing a meritless cookie cutter complaint against a company or its accountants.

Abusive litigation also severely impacts the willingness of corporate managers to disclose information to the marketplace. Many companies refuse to talk or write about future business plans, knowing that projections that do not materialize will inevitably lead to lawsuits, many of which will simply allege that a prediction did not come true. Once discovery begins, plaintiff's counsel begins what we call a fishing expedition for evidence. And as one witness told the committee, the overbroad discovery request in this typical case ended up with the company producing over 1,500 boxes of documents at an expense of $1.4 million. Companies cannot continue to spend the time and the money that these cases cost. So many times they are forced to settle meritless cases.

As a result, investors do not have the benefit of knowing about the future plans of a company because companies are afraid to make that information available. As a former SEC Chairman told the committee, and I quote:

> Shareholders are also damaged due to the chilling effect of the current system on the robustness and candor of disclosure. Understanding a company's own assessment of its future potential would be amongst the most valuable information shareholders and potential investors could have.

S. 240 will encourage companies to make what we call forward-looking statements by reducing the threat of abusive litigation. Companies that make projections and that provide a clear warning to investors that the projections may not be accurate will be protected from costly litigation.

Some have said that this safe harbor for forward looking statements would give license for companies to say anything. That it will give license to the quick buck artist, the penny stock guys, the people who come out with IPO's. This is not true. We have excluded newly started companies which have not established a track record from this protection. Only recognized companies with substantial interests will get this protection. Most importantly, if a defendant knowingly makes a false or misleading forecast, they are not protected.

The statement that this legislation will allow companies to knowingly lie and get away with it—and that statement has been made—is just not true. If you knowingly lie, if you intentionally mislead, you can be held liable. There is no safe harbor for initial public offerings, for blank check offerings, for rollups, for penny stocks, for tender offers and leveraged buyouts. Safe harbor does not affect the power to bring an enforcement case.

Now, exactly who are the victims of securities fraud? Many times, there is no victim. Instead there is just a professional plaintiff whose name appears in the lawsuits, these names appear time after time after time. In one case, a retired lawyer appeared as the lead plaintiff in 300 lawsuits, he bought small numbers of shares in many companies and then served when they were sued. Last year, an Ohio judge refused to permit class action certification, noting that the lead defendant had filed 182 class action suits in 12 years.

Now, that is not what the private right of action is intended to do.

S. 240 discourages the use of professional plaintiffs by eliminating the bonus payments to plaintiffs and prohibiting referral fees. In other words, if

you are one of these people who bought 10 shares in 700, 800, or 900 companies you can no longer receive a bonus when a lawyer uses your name for a suit.

The practice of using professional plaintiffs permits the lawyers to hire the client. Professional plaintiffs also permit the lawyer to win the ''race to the courthouse'' in filing a complaint. Often whoever files a claim first becomes the lead plaintiff, the lead counsel, even when multiple complaints are filed against the companies alleging securities fraud.

Because the huge settlements in these cases provide significant fees to counsel, the competition is fierce. This bill creates a new procedure to ensure that the plaintiffs who are legitimately damaged, who have a real stake, who are not these professional plaintiffs, who own 1 share or 10 shares in multiple companies, can control the suit. This bill says the institutional investors, the people who have billions in pension funds, the retirees, those managers will have a greater stake in the case.

Can you imagine empowering somebody who owns 10 shares to represent you when you represent 500 million. Someone who has a half billion dollars invested could have no say in who the attorney will be, or what the eventual settlement will be while the case is managed by someone who has only 10 shares.

Mr. DOMENICI. Will the Senator yield for some observations?

Mr. D'AMATO. Certainly.

Mr. DOMENICI. The Senator said it would be managed by shareholders with 10 shares.

Mr. D'AMATO. That is what is taking place now.

Mr. DOMENICI. Actually, it is even worse than that because it is managed by the lawyer of the shareholder of 10 shares.

Mr. D'AMATO. Correct. Because in many cases the shareholder receives a bonus from the lawyer but is not otherwise involved in the case.

Mr. DOMENICI. The lawyer calls himself an entrepreneurial lawyer in this case. He is in business. It is not the shareholder; it is the lawyer who is in the business of managing the lawsuit. In fact, I will quote some courts that have found that to be the case.

Mr. D'AMATO. That is correct. I thank the Senator for bringing this point to the floor. Again I would like to commend Senator DOMENICI and Senator DODD who have labored for years to craft a bill that is fair, that is balanced, that protects those investors, the small investors, the pension people, who have invested their life savings and also protects businesses who raise the capital that keeps our communities healthy, from lawyers who go after deep pocket firms and file suits against people just because their projections did not come true. This bill will curb private securities fraud lawsuits, but only the frivolous ones that result from abusive practices. Victims of securities fraud will not be left without remedy. The time for reform of this system is now. This bill has 51 cosponsors and I urge all of my colleagues to support this legislation. It is well crafted. It is contentious only because it tries to strike a balance. Whenever you try to find a middle ground there are people on either side who think you should go further in their direction. No one can doubt that the system is out of control and it needs fixing; that is what we attempt to do with this legislation.

Mr. President, I yield the floor.

Mr. DOMENICI. Senator DODD, why do you not proceed and I will follow you, if it is all right?

Mr. DODD. Let me inquire, Mr. President, of my colleague from Maryland, does my colleague from Maryland, the ranking member of the banking committee if he wishes to proceed first. I am obviously interested in the bill, but I also appreciate immensely the seniority system.

Mr. SARBANES. We are quite happy to hear the three proponents of the bill who are on the floor now. We heard from Senator D'AMATO, and we would be happy to hear from the Senator from Connecticut and Senator DOMENICI. And then those of us who oppose it might have a chance to make our statements. But I would be happy to defer to the Senator from Connecticut. Then we can address his comments.

Mr. DODD. I thank my colleague from Maryland.

Mr. President, let me begin by thanking my colleague from New Mexico. I worked with him for a long time on this issue, Mr. President. We go back several years. This is not a recent event but rather goes back into the previous Congress and before, so I thank him for his tremendous efforts in helping us fashion a piece of legislation here that we hope will attract the support of a substantial number of our colleagues. It has already, as my colleague from New York pointed out—and I thank my colleague from New York, the chairman of the Banking Committee, for his leadership on this issue for setting up a set of hearings for us, timely hearings, and a markup of this legislation and bringing the bill to the floor.

I also want to commend my colleague from Maryland who has a different point of view on this legislation but nonetheless is working cooperatively with us, expressing his points of view very forcefully and offered various amendments in the committee, and I am confident he will again on the floor.

Mr. President, this is an important day for American investors and for the American economy. This is the day we start a full Senate debate on a bill that would restore, in my view, fairness and integrity to our securities litigation system.

To some this may sound like a dry and technical subject. But in reality it is crucial to our investors, our economy and our international competitiveness. We are all counting on our high-technology firms to fuel our economy into the 21st century. We are counting on them to lead the charge for us in the global marketplace, so to speak. Those are the same firms that are most hamstrung, I would point out, by a securities litigation system that, frankly, works for no one, save plaintiffs' attorneys.

Over the past year-and-a-half the process by which private individuals bring securities lawsuits has been under the microscope. The result of this intense scrutiny has been to dramatically change the terms of the debate. We are no longer arguing about whether the current system needs to be repaired. We are now focused on how best to repair it. Even those who once maintained that the litigation system needed no reform are now conceding that substantive and meaningful changes are required if we are to maintain the fundamental integrity of private securities litigation.

The flaws, Mr. President, of the current system are simply too obvious to deny. The record is replete with examples of how the system is being abused, and misused. In fact, the Chairman of the Securities and Exchange Commission, Arthur Levitt, said at the beginning of this year—and I quote him—''There is no denying,'' he said, ''that there are real problems in the current system,''—speaking of securities litigation—''problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.''

The legislation under consideration today is based upon a bill that the distinguished Senator from New Mexico and I have introduced for the last several Congresses. While there are some provisions from the original version of S. 240 that, frankly, I would have liked to have seen included in this bill—and we will discuss that later—I understand, as I think my colleagues do, the need to produce a consensus document if you are going to proceed. Producing a balanced bill is never easy. The old saw, Mr. President, that ''if a compromise makes everyone somewhat angry, then it must be fair'' is perfectly apt for today's debate. But that is what we have today, Mr. President, a bill that carefully and considerately balances the need for our high-growth industries with the legitimate rights of investors, large and small.

I am proud of the spirit of fairness and equity that permeates this legislation. I am also proud, Mr. President, of the fact that this legislation tackles a very complicated and difficult issue in a thoughtful way that avoids excess and achieves, I believe, and I think my colleagues from New York and New Mexico do, a meaningful equilibrium under which all of the interested parties can survive and thrive.

Moreover, Mr. President, perhaps most importantly, this is a broadly bipartisan effort. This bill passed the

Banking Committee 11–4, with strong support from both sides of the political aisles. And the 51 cosponsors of S. 240 in this body are composed of U.S. Senators from both parties, reflecting all points on the so-called ideological spectrum. H.L. Mencken once said, every problem has a solution that is neat, simple, and usually wrong. Believe me, if there were a simple solution to the problem besetting securities litigation today almost everyone in this Chamber would have jumped at it. But those problems are so pervasive and complex that we have moved far beyond the point where the public interest is served by waiting for the courts or other bodies to fix them for us.

The private securities litigation system is far too important to the integrity and vitality of American capital markets to continue to allow it to be undermined by those who seek to line their own pockets with abusive and meritless suits. Let me be clear, Mr. President, private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon Government action.

Mr. President, I cannot possibly overstate just how critical securities lawsuits brought by private individuals are to ensuring public and global confidence in our capital markets. I believe that very deeply. These private actions help deter wrongdoing, help guarantee that corporate officers, auditors and directors, lawyers and others properly perform their jobs. That is the high standard to which this legislation seeks to return the securities litigation system. But as it stands today, the current system has drifted so far from that noble role that we see more buccaneering barristers taking advantage of the system than we do corporate wrongdoers being exposed by it.

But there is more at risk, Mr. President, if we fail to reform this flawed system. Quite simply put, the way the private litigation system works today is costing millions of investors, the vast majority of whom do not participate in these lawsuits, their hard-earned cash. As Ralph Whitworth of the United Shareholders Association told the securities subcommittee—I quote him—''The winners in these suits are invariably lawyers who collect huge contingency fees, professional 'plaintiffs,' who''—as our colleague from New York has already described—''collect bonuses, and, in cases where fraud has been committed, executives and board members who use corporate funds and corporate-owned insurance policies to escape personal liability. The one constant,'' he went on to say, ''is that the shareholders pay for it all.''

And Maryellen Anderson from the Connecticut Retirement and Trust Funds testified that the participants in the pension funds,

> * * * are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs * * * when that plaintiff is disappointed in his or her investment.
>
> Our pensions and jobs depend on our employment by and investment in our companies.
>
> If we saddle our companies with big and unproductive costs * * *. We cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as our population ages.

There lies the risk of allowing the current securities litigation system to continue to run out of control. Ultimately, it is the average investor, the retired pensioner who will pay the enormous costs clearly associated with this growing problem.

Much of the problem lies in the fact that private litigation has evolved over the years as a result of court decisions rather than explicit congressional action.

Private actions under rule 10(b) were never expressly set out by Congress, but have been construed and refined by courts, with the tacit consent of Congress.

But the lack of congressional involvement in shaping private litigation has created conflicting legal standards and has provided too many opportunities for abuse of investors and companies.

First, it has become increasingly clear that securities class actions are extremely vulnerable to abuses by entrepreneurs masquerading as lawyers. As two noted legal scholars recently wrote in the Yale Law Review:

> * * * The potential for opportunism in class actions is so pervasive and evidence that plaintiffs' attorneys sometimes act opportunistically so substantial that it seems clear that plaintiffs' attorneys often do not act as investors' ''faithful champions.''

It is readily apparent to many observers in business, academia—and even Government—that plaintiffs' attorneys appear to control the settlement of the case with little or no influence from either the ''named'' plaintiffs or the larger class of investors.

For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer cited one case as a supposed showpiece—using his words—of how well the existing system works. This particular case was settled before trial for $33 million.

The lawyers asked the court for more than $20 million of that amount in fees and costs. The court then awarded the plaintiffs' lawyers $11 million and the defense lawyers for the company $3 million.

Investors recovered only 6.5 percent of their recoverable damages. That is 6½ cents on the dollar.

That is a case cited by those who are opposed to this legislation as a showcase example of how the system works.

This kind of settlement sounds good for entrepreneurial attorneys, but it does little to benefit companies, investors or even the plaintiffs on whose behalf the suit was brought.

It should not surprise anyone that those who benefit most from the flaws in the current system are the same people who are the most vociferous in opposing the provisions in this bill that would clean up the mess.

It is not the companies, nor investors nor even plaintiffs—large or small—who are fueling the opposition.

The loudest squeals come from the lawyers who will no longer be able to feather their nests by picking clean as many corporate defendants as possible.

A second area of abuse is frivolous litigation. Companies, particularly in the high-technology and bio-technology industries, face groundless securities litigation days or even hours after adverse earnings announcements.

In fact, the chilling consequence of these lawsuits is that companies, especially new companies in emerging industries, frequently release only the minimum information required by law so that they will not be held liable for any innocent, forward-looking statement that they may make.

In fact, I received a letter just this past Monday from Raytheon Co., one of the Nation's largest high-technology firms.

Raytheon made a tender offer of $64 a share for E-Systems, Inc., a 41-percent premium over the closing market price. Let me allow Raytheon to explain what happened next:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-Systems shareholders, the first of eight purported class action suits was filed less than 90 minutes after the courthouse doors opened on the day that the transaction was announced. Ninety minutes, Mr. President. This was a letter sent to me on June 19.

You tell me we do not have a problem here. Minutes after announcement, the lawsuits, before any examination, any inquiry is made, 90 minutes later there is a lawsuit being filed for millions of dollars claiming unfairness. That is what is wrong, and that is what this bill tries to correct. This ought not to be a matter of division in this body. This is a mess, and it should be cleaned up.

No one lawyer could possibly have investigated the facts this quickly. What the lawyers want is to force a quick settlement. That is all this is. This is a holdup. You would get arrested in most States if you try to do this to a retailer.

The Supreme Court in Blue Chip Stamps versus Manor Drug Store echoed this concern about abusive litigation, pointing out:

> [I]n the field of Federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial . . . the very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the

deepest pockets, regardless of their relative complicity in the alleged fraud.

The result of the existing system of joint and severable liability is that plaintiffs' attorneys seek out any possible corporation or individual that has little relation to the alleged fraud—but which may have extensive insurance coverage or otherwise may have financial reserves.

Although these defendants could frequently win their case were it to go to trial—we all know it happens—the expense of protracted litigation and the threat of being forced to pay all the damages makes it more economically efficient for them to settle with the plaintiffs' attorneys, and that is what happens.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against the abuses of joint and several liability.

Chairman Levitt said at the April 6 hearing of the Securities subcommittee that he was concerned, in particular, ''about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud.''

Frequently, these settlements do not appreciably increase the amount of losses recovered by the actual plaintiffs, but instead add to the fees collected by the plaintiff's attorneys.

Again, the current system has devolved to a point where it favors those lawyers who are looking out for their own financial interest over the interest of virtually everybody else involved, and that is the fact.

The bill before us today contains four major initiatives to deal with these complex problems. Let me identify them briefly.

First, the legislation empowers investors so that they, not their lawyers, have greater control over their class action cases by allowing the plaintiff with the greatest claim to be the named plaintiff and allowing that plaintiff to select their counsel.

That sounds so commonsensical, I do not know why we have to write it into law, but that is what you have to do. In fairness to the plaintiff, that ought to be the lead plaintiff.

Second, it gives investors better tools to recover losses and enhances existing provisions designed to deter fraud, including providing a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged, instead of discouraged, from volunteering much-needed disclosures that potential investors ought to have in making decisions about whether to invest or not.

Third, it limits opportunities for frivolous or abusive lawsuits and makes it easier to impose sanctions on those lawyers who violate their basic professional ethics.

Fourth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

I would like to go into each of these provisions in a bit more detail.

EMPOWERING INVESTORS

The legislation ensures that investors, not a few marauding attorneys, decide whether to bring a case, whether to settle, and how much the lawyers should receive, and that is the way it ought to work.

The bill strongly encourages the courts to appoint the investor with the greatest losses—usually an institutional investor like a pension fund—to be the lead plaintiff.

This plaintiff would have the right to select the lawyer to pursue the case on behalf of the class.

So for the first time in a long time, plaintiffs' lawyers would have to answer to a real client, not one they have hired.

We are bringing an end to the days when a plaintiffs' attorney can crow to Forbes magazine that ''I have the greatest practice of law in the world. I have no clients.''

That is one of the lawyers talking. A practice without clients, and that is what this has turned into.

The bill requires that notice of settlement agreements that are sent to investors clearly spell out important facts such as how much investors are getting—or giving up—by settling and how much their lawyers will receive in the settlement.

This means that plaintiffs would be able to make an informed decision about whether the settlement is in their best interest—or in their lawyers' best interest.

Again, what a radical thought to be included in the bill, allowing the plaintiffs to decide what is in their interest rather than the attorneys deciding it. The fact we even have to write this into law tells you volumes about the mess the present system is in.

And the bill would end the practice of the actual plaintiffs receiving, on average, only 6 to 14 cents for every dollar lost, while 33 cents of every settlement dollar goes to the plaintiffs' attorneys. This is the average you get back as a plaintiff under the present system.

The bill would require that the courts cap the award of lawyers' fees based upon how much is recovered by the investors. And that is what it ought to be, how much do the investors get back as plaintiffs, then you set the fees.

Simply putting in a big bill will not guarantee the lawyers multimillion-dollar fees if their clients are not the primary beneficiaries of the settlement.

Taken together, Mr. President, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who siphon huge fees right off the top of any settlement.

The bill requires auditors to detect and report fraud to the SEC, thus enhancing the reliability of independent audits.

The bill maintains current standards of joint and several liability, for those persons who knowingly engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing security fraud.

The bill restores the ability of the Securities and Exchange Commission to pursue those who aid and abet in securities fraud, a power that was diminished by the Supreme Court in last year's Central Bank decision.

The bill clarifies current requirements that lawyers should have some facts to back up their assertion of securities fraud by adopting the reasonable standards established by the Second Circuit Court of Appeals. Again, Mr. President, imagine that—you have to have facts to back up your assertion. I thought that is what they taught you. I learned that in the first year of law school. Now I have to write it into the legislation here because we get these 90-minute lawsuits being filed. So we require that in the bill as well.

This legislation is there for using a pleading standard that has been successfully tested in the real world. This is not some arbitrary standard pulled out of a hat or crafted in committee; it follows the Federal courts.

The bill requires the courts, at settlement, to determine whether any attorney violated rule 11 of the Federal Rules of Civil Procedure, which prohibits lawyers from filing claims that they know to be frivolous.

If a violation has occurred, the bill mandates that the court must levy sanctions against the offending attorney. Though the bill does not change existing standards of conduct, it does put some teeth into the enforcement of these standards.

The bill provides a moderate and, I think, thoughtful statutory safe harbor for predicative statements made by companies that are registered with the SEC.

Further, the bill provides no such safety for third parties, like brokers, or in the case of merger offers, tenders, roll-ups, or the issuance of penny stocks. There are a number of other exceptions to the safe harbor provisions, as well, Mr. President, which my colleagues can look at.

Importantly, anyone who deliberately makes a false and misleading statement in a forecast is not protected by the safe harbor. My colleague from New York made that point, and I emphasize it again here this afternoon.

By adopting this provision, the Senate will encourage, we think, responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

This legislation preserves the rights and claims of small investors. The legislation preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000.

These small investors will still be able to hold all defendants responsible for paying off settlements, regardless of the relative guilt of each of the named parties.

But while the bill will fully protect small investors, so that they will recover all of the losses to which they are entitled, the bill establishes a proportional liability system to discourage the naming of deep-pocket defendants, merely because they have deep pockets.

The court would be required to determine the relative liability of all the defendants and thus deep-pocket defendants would only be liable to pay a settlement amount equal to their relative role in the alleged fraud.

A defendant who was only a 10 percent responsible for the fraudulent actions would be required to pay 10 percent of the settlement amount.

In some circumstances, the bill requires solvent defendants to pay 150 percent of their share of the damages to help make up for any uncollectible amount in the lawsuit.

By creating a two-tiered system of both proportional liability and joint and several liability, the bill preserves the best features, I think, of both systems.

There has been an unfortunate tendency during the course of many debates on these proposed reforms for advocates on both sides to increase the rhetoric, to use increasingly extreme examples in order to politicize and polemicize the atmosphere of this debate.

When the steam of overheated rhetoric blows off, when the extremists on both sides have been discounted, I believe we are left with the inescapable conclusion: Action is needed—and needed now, Mr. President—to make the securities litigation system work in the manner for which it was designed.

A system of litigation in which merits and facts matter little, in which plaintiffs recover less than lawyers, in which defendants are named solely on the basis of the amount of their insurance coverage, or the size of their wallets, does not serve us well at all.

In short, we have a system in which there is increasingly little integrity and confidence—a system incapable of producing confidence and integrity in our Nation's capital markets.

This bill is an important step in repairing an ailing system. It is a bill that has strong bipartisan support within this Chamber. And it has broad support outside these walls, as well, from virtually every segment of the business and investment community.

Mr. President, this legislation needs to be enacted and I urge my colleagues to support it.

Mr. President, I noted that our colleague from New Mexico was on the floor. I do not know whether or not he is still here. I see him now.

I yield the floor, and we will now hear from the Senator from New Mexico.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, might I first say that when I first started working on this legislation—actually, it came to me after reading some articles about the litigation and the contention of both sides as to what was happening to class action lawsuits as they applied to securities and to companies that issued stocks and securities and bonds—I came to a conclusion that it would be a very interesting thing to look into and, perhaps, see what I could do.

I made one glaring mistake. I had arrived at the conclusion that there was something very, very wrong, but I failed to understand, I say to my friend and cosponsor—and we varied. I put it in one time and the Senator put it in the next time. It was Domenici-Dodd and then Dodd-Domenici. But I failed to recognize how those lawyers, small in number, for this is not the whole of America, this is a small group. I failed to recognize or perceive how tough they were going to be in saving their domain—and tough they are, and tough they are to this day. They are getting people to run advertisements in our States—in my State, it is not so easy because Representative RICHARDSON, a Democrat, voted for the House reform; I am for it here, and all the Representatives from New Mexico voted for it. I do not know where Senator BINGAMAN is, but he was a cosponsor. Maybe he does not like the bill on the floor. So I am not talking for myself on these ads. Can you imagine what point we have reached, in terms of lawyering, and the old concept of who the lawyers work for? Who do they belong to? They belong to the justice system and they work for the courts of America. Here they are running ads and protecting their domain. It is rather amazing. I never thought we were going to get into this when we started down this path, but I soon found out.

I want to say that, while this cries out for reform, apparently our judges are not going to make the reform, although they created the rules; these are court-created private rights of action, as I understand it. Section 10b private lawsuits are not statutory. Judges created it. They are not going to fix it. Although, there seems to be a tendency, in the last 6 months, for the judges to be a little more through this process. Senator DODD explained that somewhere they caught them red-handed. Ninety minutes after an announcement of a merger intention, they are suing for collusion or fraud and just claiming huge damages. The courts are beginning to say, ''What is this?''

But I began to find out, when we started having our first hearings, that we were talking about some very, very rich lawyers—not rich over 40 years of practice or an accumulation of assets, but because they made millions every year—not a few hundred thousand dollars, but millions. And surely it would be tough for them to ever appreciate that maybe they were not adding very much of a positive nature to the United States society, or to securities or bonds or stocks, or to the plaintiffs that they sued for as a class.

Now, our country is suffering from hyperlexia. That is a nice word, and I believe it means a serious disease caused by an excessive reliance on law and lawyers. Hyperlexia. It is a disease—and a disease it is. For those who think that hyperlexia, relying upon law and lawyers, is the basic ingredient for good regulation, for good behavior, you have just told the American people that it is going to cost you an awful lot of money for that, because it is inconclusive, and very vague. Each case sets its own pattern. So people do not know how to behave and what the law is.

So from this Senator's standpoint, I do not think we would be here if it were not for the chairman of the Banking Committee, the distinguished Senator from New York, Senator D'AMATO, who took this cause on and, obviously, is leading it here on the floor today. He brought a balance to it, because he had a feel for both sides. I thank him tonight because we are going to make some good, solid law. When it is interpreted by our courts and by the bar of America, we are going to end up doing right, because those who are cheating and ripping off stockholders—they are going to still get stuck, but those doing almost nothing wrong, except their company's stock price goes up or down, they are no longer going to get stuck for millions in settlements just to pay to the lawyers.

So, from this Senator's standpoint, I do not usually use words like vexatious or vexatiousness, but I found that the Supreme Court described this confusing system, ''presents a danger of vexatiousness, different in degree and kind from that which accompanies litigation in general.'' I believe my good friend Senator DODD alluded to that; that is, there is a degree and a kind of vexatiousness about this that is much different from a normal complaint in a lawsuit in negligence or other Common Law torts.

So let me define the word. I tried to find out what does the word means, because to me it meant to bring fear or such. It comes from a verb, to vex, which means, ''to harass, to torment, to annoy, to irritate and to worry.'' And, as a noun it is synonymous with ''troublesome.'' In the legal context it means ''a case without sufficient grounds brought in order to cause annoyance to the defendant or a proceeding instituted maliciously and without probable cause.''

It is time that we stop vexatious securities litigation, and fix it we will. During our hearings—and I am no longer on the Banking Committee, and I will help the chairman out wherever I can for the next couple of days as we attempt to pass this legislation, but obviously the responsibility and the credit is to the Banking Committee and those who are working on it now.

During the hearings, we found that the threat of a huge jury award is being misused to sue emerging, rapidly

growing companies, especially in the high-technology and biomedical technologies where stock prices are volatile under the best of circumstances. A drop in a stock price is all that these—and I will call them, for the remainder of my discussion on the floor, I will name those lawyers involved in this as a new kind of lawyer. I will call them entrepreneurial lawyers, because they are in it to manage the suit, and in a very real sense the lawsuit becomes their business rather than the business of the plaintiff. The way it is currently structured, they do not even have to respond to anyone.

Let me proceed.

Cases settle regardless of merit. We could go on with many, many reasons for this litigation not serving the public good. But let me wrap up with just one on this first part of my comments. This system is not deterring fraud because insurance companies, most of the time, make the settlements and pay the money. So what we have and what is wrong with this system is very, very fundamental. Lawyers, not clients, control these cases. That is number one.

Number two, this system obstructs voluntary disclosure of information. Who will voluntarily disclose information when they are apt to be liable for just doing that?

And the last is defendants are forced to settle meritless cases. When you add that up, it is time to change the system.

The Wall Street Journal labeled these cases as ''the class action shakedown racket.'' That is what it is, a shakedown racket.

Let me talk about who wins when one of these lawsuits is settled, for this is the most significant part of it all. Investors are only recovering about 7 cents on the dollar when compared with the amount of losses alleged. The lawyers earned on average $2.12 million per settlement, about 30 percent of the whole, during a 12-month period ending July of 1993 according to a study by the National Economic Research Association.

Other studies confirm that investors recover only 6 to 14 cents under the system. Obviously, the system is not working, because the SEC and others who have analyzed it say that a system, to be working, is supposed to do the following. The primary yardstick is that it enables defrauded investors to seek compensatory damages and thereby recover the full amount of their losses. So we ought to start by measuring this system against the criterion of full amount of losses recovered. You will find it fails. On a scale of A through F—F being failure. It gets worse than an F in terms of its ineffectiveness.

As investors are recovering a few cents on the dollar, attorneys are boasting that these securities class actions are a perfect practice, according to—I think my friend from Connecticut quoted this one—one of these distinguished lawyers, who said in Forbes magazine, ''The reason this is a great practice is because there are no clients.''

These are clientless lawsuits. These are clientless lawyers who claim to be acting in the best interests of investors. The institutional investors believe that these lawsuits are merely transferring money from one set of shareholders to another with the plaintiffs' class action lawyers taking a lion's share. That looks a lot like greenmail.

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

Mr. DOMENICI. I will be pleased to yield.

Mr. BENNETT. You speak of clientless lawyers and clientless cases. Is that the reason all of the money goes to the lawyers and not to the clients?

Mr. DOMENICI. You got it. As a matter of fact, what it really means is that the lawyers have quickly become more interested in settling a lawsuit on terms that are satisfactory to their pockets. So, if it looks like they can fight on but they are going to get $6 million in this settlement and the others are going to get 8 cents on their shares, that is looking pretty good.

What prevents it from happening? Maybe the judges are getting more involved now. But, normally, for many and many a year, nobody had anything to say about it. In reality, although if you had a lawyer here, he would tell you that he is bound by this and he is bound by that and the judge can do this and the judge can do that. But history says they are getting the lion's share of the money and the client or plaintiff is not getting very much.

Does one think the client is managing the case and calling the shots? In many cases the members of the class do not even know what is happening. Let me also tell you, plaintiffs are not making very much unless they are very fortunate. If they are professional plaintiffs, they are doing pretty well because they receive bonuses of $10,000 to $15,000 for letting the lawyers use their names, and, frankly, we are going to prohibit that. I think that ought to be prohibited and should have been prohibited. It has no place in solid lawyering. What happens is some people have shares in 300 or 400 companies and the lawyers the same person's name on 20, 30, 50 lawsuits. These are individuals with 10 shares and the lawyers give them this bonus. The rest of the class does not make very much, but that fellow does very well. I think we had one, Mr. President, who was 92 or 94 years old that we found out—do you remember that case? He had a lot of these. He had 10 shares of stock and he was a very big friend of these entrepreneurial law firms. He was readily available. He pulled the trigger.

Mr. BENNETT. Will the Senator yield further?

Mr. DOMENICI. I am pleased to.

Mr. BENNETT. It is my understanding that the judge referred to him in one case as ''the unluckiest investor in the world'' because he was always suing for losses. He did not invest in order to make any money. He invested so he could be a professional plaintiff, and he was in court so often the judge referred to him in that manner.

Mr. DOMENICI. I was not there when that was done and I do not recall it, but it surely seems right to me. And if you say it, it happened. It is exactly what is happening.

The race to the courthouse has been described by both the chairman of the full committee and by Senator DODD. I will not proceed beyond saying that whenever you find, in the American judicial system, that a substantial portion of a certain kind of lawsuit is based upon the premise that whoever gets to the courthouse first gets to control the lawsuit, then it seems to me you do not have to have that situation very long until you ought to look and see what is this all about? Because it is an invitation to craft poor complaints, to state anything you want or invent things and then waste a year and a half of time, money, and take depositions to try to find out whether you have a lawsuit or not. When I started practicing law—maybe that is passe—that was not the way to practice. Now it seems to be for many of those, and they would like to keep it that way for this system.

It also makes us do sloppy legal work—not us but those who are doing it—sloppy legal work. The cookie-cutter complaint, which is probably the one the Senator referred to as to Raytheon—cookie-cutter complaint. All the allegations are the same, case after case. Senator D'AMATO, we have one, they always use the same allegations and the same words. The lawyers just change the name of the company being sued—it pops out of the computer. In fact, I think some of them have terminals where they are hooked into the stock market. The stock is going to fluctuate and the computer is going to spit out a lawsuit.

The lawyer just signs his name on it. But a judge took one of these not so lightly because a plaintiff's lawyer inserted in the complaint the name of the company he was suing: Philip Morris. They accused Philip Morris of fraudulently manufacturing toys, t-o-y-s, not cigarettes. Philip Morris does not manufacture toys, a typical cookie cutter complaint—a demand for hundreds of millions of dollars in damages. This bill is about stopping this kind of lawsuit. It is shoot, aim, ready. Instead of ready, aim, shoot, it is shoot, aim, ready.

The National Association of Securities and Commercial Lawyers suggests that 56 percent of the cases they had hand picked to provide data on to the Securities Subcommittee were filed within 30 days of the triggering event. A triggering event is usually a missed earnings projection, a so-called earnings surprise. Twenty-one percent of the cases were filed within 48 hours of

the triggering event. The stock prices dropped, and class action suits are filed with little due diligence to investigate the basis of the case.

But you can count on it. If the lawyer is a good entrepreneur and sticks with it, he will get paid something even for that kind of suit, whether there is anything to the suit. Companies have to settle.

Of the 111 cases filed in 1990 and 1991, 25 percent were filed by pet plaintiffs, the plaintiff that we described a while ago. In 25 percent of the cases, they went out and hired the plaintiff and paid them a bonus. Even if they had a lawsuit that was decent, the point of it is that was an effort to get to the courthouse quick with the pet plaintiff. So you could be the lead counsel, or at least you could maybe be representing $500 million worth of securities for a $150, $200, $300 pet plaintiff.

So from this Senator's standpoint, the bill before us is a very good approach to settling and solving these problems. As I see it, the details of this bill will be debated and amendments will be offered. So I am not going to go into details.

But I would like to just close with one current situation. I know about it because a company has one of its biggest production plants in New Mexico. The general counsel for Intel testified that Intel had been sued. When it was a startup, such a suit probably would have bankrupted the company long before it investigated in microchips.

This is an example of the innovation and entrepreneurship that these cases are threatening to snuff out. So let me give you one about Intel. If this had been filed when it was a young company, we would not have Intel.

On December 19, 1994, Intel was sued over the flaw in the Pentium chip. Despite the fact that it would take 29,000 years for the chip's flaw to become apparent, and despite the fact that on December 20, 1994, Intel responded to market concerns about the chip by implementing its ''no questions asked'' replacement policy. The lawyers who filed on December 19 are asking $6 million in fees for 1 day's work. Even though they dropped the suit and Intel did not have to pay anything to the shareholders, the lawyers have inserted a provision in the settlement which forbids defendants, the defendant Intel, from publicly discussing the fee or any other provision of the settlement.

S. 240 before this Senate would require disclosure of settlements, even this kind of settlement—nothing to the plaintiffs, everything to the lawyers. With better disclosure I doubt whether that will happen very often.

Can you imagine a public disclosure for that? We did not do anything for anyone, but we get $6 million. That is nice. It is interesting. Would you not like to be doing that? It is pretty good. It might even be better than being a Senator. Who knows?

Well, there are many more like this. I have a great deal of explanation.

Prof. Joseph Grundfest of Stanford Law School has said that the plaintiffs lawyers have done little if anything to earn their hefty request.

Says Grundfest: ''much of the settlement would have come about even if no lawsuit was filed * * * to reward lawyers for that at all is the equivalent of double-dipping.''

Mesa Airlines' officers and directors were sued for keeping their mouth shut. They had a corporate policy not to talk to analysts. The analysts make some projections about Mesa. The airline neither confirmed nor denied whether they agreed or disagreed with the analysts. The mesa officers just tried to run an efficient airline. The plaintiff's lawyers have alleged that Mesa's failure to talk about analysts' projections was ''deemed to be acceptance'' of the content of the analysts' prediction. The company missed the earnings projections, their stock price dropped, and they got sued.

Prudential Bache Securities. Investors represented by the firm who testified before the committee received 4 cents on the dollar under the class action lawsuit settlement. The firm took $6 million plus expenses. Other investors who hired their own lawyers, and went to arbitration came away fully compensated.

Frivolous litigation is time-consuming and distracts chief executive and other corporate officials from productive economic activity. It has been estimated that defending one of these lawsuits is as costly as starting up a totally new product line.

These frivolous lawsuits are such a menace to publicly traded companies on the NASDAQ that the NASDAQ Self-Regulatory Organization decided to recommend reforms to Senator DODD and me.

SYSTEM IS BROKEN

The conclusion of any one who has examined the issue carefully is: The current securities implied private litigation system is broken. The system is broken because too many cases are pursued for the purpose of extracting settlements from corporations and other parties, without regard to the merits of the case. The settlements yield large fees for plaintiffs' lawyers but compensate investors only for a fraction of their actual losses. Janet Cooper Alexander of Stanford University has proven that most securities class actions are settled by the parties without regard to whether the case has merit. Chairman of the SEC, Arthur Levitt acknowledged that ''virtually all securities class actions are settled for some fraction of the claimed damages, and some alleged that settlements often fail to reflect the underlying merits of the cases. If true, this means that weak claims are overcompensated and strong claims are undercompensated.'' Prof. John Coffee has concluded the plaintiffs' attorneys in many securities class actions appear to ''sell out their clients in return for an overly generous fee award,'' and that the defendants may also join in this collusion by passing on the cost of the settlement to absent parties, such as insurers.''

The plaintiffs' lawyers like to sue the officers and directors, and the accountants, underwriters and issuers. These cases are brought under joint and several liability which means that any one defendant could be made to pay the entire judgment even if he or she were only marginally responsible. If a person is one percent liable he/she could be asked to write a check for 100 percent of the awarded damages. That is not fair.

Our bill builds upon the State law trend of imposing proportionate liability.

Under proportionate liability each person found responsible pays a share of the damages that is equivalent to the harm he or she caused.

Our bill would retain joint and several liability for the really bad actors, but would provide proportionate liability for those parties only incidentally involved. In response to the Securities and Exchange Commission's staff concern we also included a special provision to address the problem of the insolvent codefendant. We believe this provision strikes the correct balance. This liability reform is important to outside officers and directors, auditors and others who often get named in the law suit but who have little if any true liability. It helps change the economics that drive these frivolous cases.

BIG MONEY DAMAGES

The system seeks huge monetary recoveries from outside directors, outside lawyers, and independent accountants who may be only marginally involved in activities for which corporate officers should be primarily liable. Experienced people are declining to serve on boards because of the liability exposure. This denies growing companies the expertise they need to succeed. The system is not deterring fraud because insurance companies pay most of the settlement amount.

The current system also discriminates against defendants. People who have deep pockets are often named in the law suits to coerce settlements. Accountants bear the brunt of our current system of joint and several liability. Suing the accountant insures that the settlement will be 50 percent larger because of their deep pocket.

The fundamental purposes of the Federal securities laws are to promote investor confidence and deter fraud. But the system is failing its deterrent mission. A system where the merits don't matter isn't a deterrent. A system where most settlement funds are paid by insurance companies isn't a deterrent.

A system that is having a chilling effect on corporate disclosure is actually working at cross-purposes with its objective. Class action securities cases inhibit voluntary disclosure by corporations, discouraging them from making any public statements except

when absolutely required, for fear that anything they say which might move the company's stock price might trigger a lawsuit.

In order for our capital markets to function efficiently, for Wall Street analysts to evaluate stocks, or for main street investors to buy, hold, or sell a stock, they need a lot of information. An important type of information is the projections of how the company will do in the future—the so-called forward-looking statement.

By its definition, a forward looking statement is a prediction about the future. Earnings projections, growth rate projections, dividend projections, and expected order rates are examples of forward looking statements. Predictions about the future have become one of the more common types of frivolous securities lawsuits filed.

Few people know why it is important for the bill to provide a safe harbor for predictive statements. Let me ask a few questions to help my colleagues understand.

First, do you believe that earnings projections about the future are promises?

Second, do you believe stock volatility is stock fraud?

Third, do you believe that projections about future earnings should be unanimous among every single employee in the company in order for that prediction to be eligible for protection for abusive lawsuits?

Fourth, do you believe that it is fraud when an officer or director or other employee receives a significant portion of his compensation in stock options sells stock regularly?

Fifth, if you believe that any statement about future performance can, and should be used against you no matter how well intended, no matter how well reasoned, regardless of how dramatic circumstances change?

The five statements I just read are the basis for most predictive statement, class action securities cases.

To me, these cases represent everything that I find discouraging about our legal system—professional plaintiffs, fishing expeditions for documents, boiler-plate fraud accusations, contingency fee lawyers, and settlement that resemble legal blackmail.

A safe harbor is needed to encourage companies to make information available. To keep the system honest, there are laws on the books to make sure that executive trades do not create even the appearance of illegal insider trading, the process is highly regulated by the SEC. In addition, most companies have their own internal policies regulating when executives can make trades. These controls ensure that executives do not trade during lengthy black out periods within months of important announcements. The SEC also has imposed rules regarding executive selling that require prompt reports, which are then available to the investing public.

First, if you believe that efficient capital markets need information, you agree with investors, the SEC, and securities analysts. As the California Public Employees Retirement System [CALPERS] recently stated, ''forward-looking statements provide extremely valuable and relevant information to investors.''

SEC Commissioner Arthur Levitt recently wrote: ''There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure * * *.''

Former SEC Chairman Richard Breeden testified:

> Shareholders are also damaged due to the chilling effect of the current system on the robustness and candor of disclosure. . . . Understanding a company's own assessment of its future potential would be among the most valuable information shareholders and potential investors could have about a firm.

Second, if you believe that disclosure of information helps investors make intelligent decisions you should be calling for reform because the very nature of forward-looking statements makes them particularly fertile ground for abusive lawsuits. If a company fails to meet analysts' profit expectations, or production of a new product is delayed, it is often faced with a law suit. As a result, companies are increasingly reluctant to disclose forward-looking information. Numerous studies have documented this trend. According to testimony given by James Morgan, National Venture Capital Association, one study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.

Keeping quiet is not an escape route from these frivolous cases. One company in my State had a policy not to talk to analysts which developed from a fear of being sued. But they were sued anyway for failing to disagree with an analysts' projection. The legal theory was that the company incorporated by silence the analysis's estimations. Mesa Airlines is not the only company to be sued for keeping its mouth shut.

Third, if you recognize that predictions about the future do not always come true and that investing has some risks attached, you should support the statutory safe harbor: Institutional investors are the most professional, sophisticated investors in our markets. In addition, they have a fiduciary duty to retirees to prudently manage their pension funds. These institutional investors have argued that forward looking statements accompanied by warnings should be per se immune from liability. The Council of Institutional Investors told the SEC that any safe harbor must be 100 percent safe. This means that all information in it must be absolutely protected from law suits even if it is irrelevant or unintentionally or intentionally false or misleading. The bill does not go as far as the institutional investors suggested. We think it strikes the correct balance.

The SEC Rule 175 permits issuers to make forward looking statements about certain categories of information provided that the prediction is made in good faith with a reasonable basis. Currently, this SEC safe harbor rule actually discourages issuers from voluntarily disclosing this information. To quote the SEC:

> Some have suggested that companies that make voluntary disclosure of forward-looking information subject themselves to a significantly increased risk of securities antifraud class actions.'' As such, ''contrary to the Commission's original intent, the safe harbor is currently invoked on a very limited basis in the litigation context.'' Critics state that the safe harbor is ineffective in ensuring quick and inexpensive dismissal of frivolous private lawsuits. (SEC Securities Act of 1993 Release No. 7101, October 1994)

An American Stock Exchange survey supports that conclusion. It found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit.

As the SEC has realized, forward-looking statements are predictions—not promises. This bill recognizes that a reasonable basis for such information doesn't have to be a unanimous basis. This bill creates a statutory safe harbor which:

Provides a clear definition of ''forward looking statement'' for both the 1933 and 1934 acts;

Covers written and oral statements;

Requires that the predictive statement contain a Miranda warning describing the statement as a prediction and a disclosure that there is a risk that the actual results may differ materially from those predicted;

No safe harbor protection for statements knowingly made with the expectation, purpose, and actual intent of misleading investors. There is no so-called license to lie under this bill;

Protects statements made by issuers, persons acting on their behalf such as officers, directors, employees, and outside reviewers retained by the issuer. Accounting and law firms are eligible for the safe harbor, brokers and dealers are not;

No safe harbor protection for initial public offerings [IPOs], penny stocks, roll-up transactions and issuers who have violated the securities laws;

Provides the SEC with new authority to sue for damages on behalf of investors in predictive statement cases. The SEC's recovery should be much better than the average of 6 cents on the dollar currently recovered by private attorneys;

Encourages SEC to review the need for additional safe harbors.

New Mexico is a high-technology State. It is the home to Los Alamos and Sandia National Laboratories. We have more engineers and PhD's per capita than any State in the Union. High technology and high growth companies are our future, yet they are the companies that are hit most often by frivolous lawsuits. They have volatile stock. I do not really see how New Mexico can expect to develop the spin-off companies from the labs and to

grow high technology companies unless we pass legislation that has a meaningful safe harbor for predictions about the future.

I am pleased that the final bill includes a statutory safe harbor. Originally, S. 240 contained an instruction to the SEC to develop a new safe harbor. However, the SEC has been working on it for more than a year and they are gridlocked. They held some very good hearings and some of the material presented before them has been very useful to the committee in developing its statutory safe harbor.

We want to get back to basics. The central principle underlying the securities laws is that investors should receive accurate and timely disclosure of the financial condition of publicly traded companies.

The objective of this bill is to recognize that litigation isn't George Orwell's 1994 version of Big Brother looking out for investors' best interest. We reject ''stock volatility is fraud''; we reject ''justice is pennies for lawyers''; We reject ''equity is millions for lawyers.''

S. 240 will encourage disclosure, strengthen confidence, realine the role of the entrepreneurial plaintiffs' lawyers with the best interests of their clients, and change the risk/benefit equation of taking cases to the jury.

The basis of our bill is to make the plaintiffs' bar, ''Stop, think, investigate, and research.''

The spirit motivating this bill is the obligation that Chairman Levitt identified, ''to make sure the current system operates in the best interest of all investors. This means focusing not just on the interests of those who happen to be aggrieved in a particular case, but also on the interests of issuers and the markets as a whole.''

With S. 240, we have decided to take a historic step. For the first time since Congress created the Federal securities laws in 1933 and 1934, we have decided to revisit section 10(b) and rule 10b–5 in order to fix many of the problems created by the courts and our own failure to act during the past 60 years. If you would like to put an end to the inconsistency and confusion, you should support S. 240. If you would like to relieve the courts of the burden of revisiting 10b–5 every year and put an end to the judicial activism associated with this area of the law, vote for this bill. If you want to allow the abuse of investors and companies, the stifling of job creation and the continued shaping of the contours of the law to continue, you should vote against it. In the end, S. 240 will give courts greater guidance to deal with meritorious securities class actions and greater incentive to eliminate most, if not all, of the frivolous ones. We owe it to investors, companies, and our capital markets to take this historic step.

Mr. President, hopefully, in the next few days, we will change this law and go to conference with the House, and maybe before this year is out, set some of these things straight.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I have listened to my colleagues now for well over an hour very carefully. This is an important piece of legislation, and it deserves very careful attention. I think perhaps the best summary, in a sense, of some of the statements we have heard was the comment made by my distinguished colleague from Connecticut, who said that there might well be a tendency in the course of debating this bill to use increasingly extreme examples and overheated rhetoric. I think that was his exact quote. And we have already seen some of that at work over the opening debate that has taken place now for well over an hour.

I do not know of anyone who differs with the goal of deterring frivolous lawsuits, and sanctioning appropriate parties when such lawsuits are filed. My colleague from Connecticut at one point said this bill is an important step in repairing an ailing system. Parts of this bill are an important step in doing that. Other parts of this bill will, in my judgment, contribute to an unhealthy system. And the challenge that is before the Senate over the next few days as we work through this legislation is to be able to distinguish between those parts in this legislation.

In the course of this consideration, amendments will be offered. Amendments were offered in committee. Some were decided by very close votes. We hope by proposing those amendments to be able to focus on what the problems are. But let me just generally make the point that this legislation as now drafted will affect far more than frivolous suits. The examples that have been cited, the horror cases, are examples that any of us would want to address and try to deal with. This bill goes beyond that. This bill overreaches that mark and, in fact, in my judgment, will make it more difficult for investors to bring legitimate fraud actions. That is the essential question. That is the discernment we have to make here.

Jane Bryant Quinn said in an article less than a week ago in the Washington Post, entitled ''Making it Easier to Mislead Investors,'' and I quote from the opening of this article:

> A lawsuit protection bill speeding through Congress will give freer rein to Wall Street's eternal desire to hype stocks. It's cast as a law against frivolous lawsuits that unfairly torture corporations and their accountants, but the versions in both the House and Senate do far more than that. They effectively make it easier for corporations and stockholders to mislead investors. Class action suits against the deceivers would be costly for small investors to file and incredibly difficult to win. I'm against frivolous lawsuits. Who is not? But these bills would choke meritorious lawsuits, too.

At the end of this long article, she concludes as follows, and I quote:

> Baseless lawsuits do indeed exist. Lawyers may earn too much from a suit, leaving defrauded investors too little. The incentives to sue should be reduced, but not with these bills. They let too many crooks get away.

And an article in the U.S. News & World Report, the most recent issue, by Jack Egan entitled, ''Will Congress Condone Fraud,'' says in part, and I quote, speaking about this legislation:

> It just might come to be remembered as legislation that has steeply tilted the playing field against investors. It makes it very hard for shareholders to sue over legitimate grievances.

And, at the end, it goes on to say:

> The pendulum has swung too far toward the lawyers, and now it is swinging too far the other way. Unfortunately, some major investor frauds may have to take place before it again moves back toward the center.

The challenge for the Senate is to get this pendulum in the right place to begin with, here, now, over the course of the next few days so that they do not have to have major investor frauds in order to swing the pendulum back toward the center.

This legislation, and certain of its provisions, goes too far. In fact, two provisions that were in the original bill as introduced were dropped in the course of evolving this legislation. Those provisions, had they remained in the bill, would deal with a number of the problems which we intend to outline over the next few days in the course of its consideration. That was in the original proposed legislation, and was taken out. As a consequence, the legislation, in my judgment, has been weakened, and the balance has tilted in an unfair and unjust way.

The fact is that this bill will make it harder to bring securities fraud actions and to recover losses. Individual investors, local governments, pension plans, all will find it more difficult to bring fraud actions and to recover their full damages as a result of this legislation.

I know examples are going to be used, but I say to my colleagues, you have to move beyond those examples. The provisions in the bill which deal with the egregious examples that would be cited ought to be in this bill and they ought to be passed. The difficulty is that the bill overreaches and it goes too far. Let me give you some instances of that.

The safe harbor provision will for the first time protect fraudulent statements within the Federal securities laws. Individual investors will not be able to sue people who make fraudulent projections of important items such as revenues and earnings.

The SEC has been working to address the question of forward looking statements, but the Chairman of the SEC, Arthur Levitt, has raised very serious questions about the safe harbor provision in this legislation. If I wanted to engage in the Senator's rhetorical combat that he spoke about earlier, I would say, rather than safe harbor, it is a pirate's cove that is in this legislation. The proportionate liability provision will for the first time put fraud

participants ahead of innocent victims and individual investors. Fraud victims will not recover their full damages.

The argument is made that you have people who are held liable, they vary in their proportionate share of the responsibility, and the deep-pocket people are held entirely liable when the principal malefactor goes bankrupt or cannot pay the award. This is in a suit that is proven to be successful, been upheld as being meritorious in court. Well, there is a problem amongst the malefactors. But to throw the burden on the innocent victim as a solution to that problem is a departure which really astounds one.

In other words, you are the victim of the fraud. A number of people have participated in it in varying degrees, and you are going to be held to assume a large part of the burden before the participants in the fraud have to be responsible. As a consequence, fraud victims will not recover the full damages.

The managers of the bill speak about its balance. In fact, the bill has a tilt, as this column in U.S. News & World Report said, and I quote it again:

> It just might come to be remembered as legislation that's steeply tilted the playing field against investors.

There is not included in this legislation provisions that the SEC and the State securities regulators feel are necessary to protect victims of securities fraud. I was interested that the Senator from Connecticut quoted Arthur Levitt as saying in a hearing there is a need for change.

That is quite true. But Chairman Levitt criticizes the measure that is now before us. If you are going to cite Arthur Levitt as supporting the proposition for change, which actually none of us is contending against here—we are not coming to the floor and saying do nothing, just leave the existing law. We are saying that there are some provisions in this legislation that ought to be passed, but there are other provisions that overreach and go too far, and Arthur Levitt says the same.

The very person cited in a sense as an expert for the proposition that change ought to be made has also told us that some of the changes contained in this legislation are undesirable.

In addition to the safe harbor issue, which we will come back and revisit in the course of the amending process, is the proportionate liability issue. This bill does not extend the statute of limitations for securities fraud actions. Fraud victims will not have time to bring their cases to court. That in fact was a provision that was in the original bill as introduced and has been dropped from the provision now before us.

The bill does not restore the ability of investors to sue individuals who aid and abet violations of the securities laws. Fraud victims will not be able to pursue everyone who helped commit a securities fraud.

It is asserted that this bill as is has reached the proper balance, but the fact remains that it is opposed, the legislation as before us, by a host of securities regulators, by State and local government officials, by consumer groups, by labor unions, by bar associations, and others, including the North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, the U.S. Conference of Mayors, the Consumer Federation of America, and a number of the large trade unions, including the Teamsters and the United Auto Workers.

The assault from the other side has been on the lawyers. These groups do not represent the lawyers. These groups represent the public, consumers, investors, and they have all reached the judgment that this bill is unbalanced—unbalanced.

Let me just speak for a moment or two about the background. It is asserted by some that there is a crisis in the securities litigation system that is threatening our capital markets. Let us take a look very quickly at our capital markets and some statistics about it.

For 1993, the U.S. equity market capitalization stood at $5.2 trillion, over one-third of the world total. More than 600 foreign companies from 41 different countries are listed on our exchanges and more foreign companies come every year. Average daily trading volume on the New York Stock Exchange has increased from 45 million shares in 1980 to 291 million shares in 1994. From 1980 to 1993, mutual fund assets increased by more than 10 times to $1.9 trillion.

In effect, Mr. President, what this demonstrates is that the U.S. capital markets remain the largest and the strongest in the world.

Now, this, I would submit, is not in spite of the Federal securities laws but in part because of the Federal securities laws. This tremendous growth in the American marketplace and its preeminent position worldwide is not in spite of Federal securities laws but in part because of Federal securities laws. The Federal securities laws have generally provided for sensible regulation and self-regulation of exchanges, brokers, dealers, and issues.

This regulation has helped to sustain investor confidence in our markets. Without that confidence in the markets, you are not going to get the kind of dominant position that we have had. And confidence in the markets on the part of investors is a consequence not only of the public regulatory scheme administered by the SEC but also because investors know that they have effective remedies against people who try to swindle them.

In other words, if you weaken unreasonably or improperly these remedies, you are going to affect investor ability to have recourse in instances in which they have been unfairly or improperly exploited, and the consequence of that is you begin to cast a doubt over the integrity of the securities markets.

Both Republican and Democratic Chairmen of the Securities and Exchange Commission have stressed the crucial role of the private right of action in maintaining investor confidence.

In 1991, then-Chairman Richard Breeden testified before the Banking Committee, and I quote:

> Private actions . . . have long been recognized as a ''necessary supplement'' to actions brought by the Commission and as an ''essential tool'' in the enforcement of the Federal securities laws. Because the Commission does not have adequate resources to detect and prosecute all violations of the Federal securities laws, private actions perform a critical role in preserving the integrity of our securities markets.

Current Chairman Arthur Levitt echoed this very point in testimony delivered this year.

The Securities Subcommittee held hearings over the past 2 years reviewing the Federal securities litigation system. It received testimony from plaintiffs' lawyers, from corporate defendants, from accountants, from academics, from securities regulators, and from investors. There was considerable disagreement among the witnesses over how well the existing securities litigation system is functioning. Some argued, and my colleagues who have already spoken argue, American business, particularly younger companies in the high-technology area, face a rising tide of frivolous securities litigation. Corporate executives suggested that securities class actions are filed when a company fails to meet projected earnings or its stock drops.

Clearly, some frivolous securities cases are filed as, indeed, some frivolous cases of every sort are filed. However, the Director of the SEC's Division of Enforcement testified in June 1993 with respect to statistics from the Administrative Office of the U.S. Courts:

> The approximate aggregate number of securities cases, including Commission cases, filed in Federal district courts does not appear to have increased over the past 2 decades. Similarly, while the approximate number of securities class actions filed during the past 3 years is significantly higher than during the 1980's, the numbers do not reveal the type of increase that ordinarily would be characterized as an ''explosion.''

Some said that these actions were inhibiting the capital formation process. In fact, initial public offerings have been setting records in recent years: $39 billion in 1992; $57 billion in 1993. The $34 billion in initial public offerings in 1994 was exceeded only by the records set in the previous 2 years.

On May 22, the New York Times reported, and I quote:

> One of the great booms in initial public offerings is now under way, providing hundreds of millions in new capital for high-tech companies, windfalls for those with good enough connections to get in on the offerings and millions in profit for the Wall Street firms underwriting the deals.

Asserting a crisis in securities litigation, which the figures do not seem to bear out, this bill makes it harder to bring lawsuits. We should ask ourselves

not simply whether these changes will result in fewer lawsuits, but whether each proposed change will make the securities laws serve our Nation better. We should ask whether legitimate cases can still be brought or whether the provisions in this legislation, which it is asserted are designed to screen out the frivolous cases, will go beyond that and, in effect, make it difficult to bring legitimate cases.

I hope Members will focus on this very issue. It is very important not to become, as it were, mesmerized by these extreme examples which my colleague from Connecticut said would obviously be cited, because no one is protecting the extreme examples.

The question is whether the provisions here will make it impossible or highly difficult to bring legitimate actions, whether it will swing the pendulum too far in the other direction. One of the articles I quoted said:

> Unfortunately, some major investor frauds will have to take place before it, again, moves back toward the center.

We do not want that to happen. We have an opportunity here on the floor by correcting this legislation to prevent that from happening.

Let me very quickly turn to some of the major defective provisions in the legislation.

First is the so-called safe harbor provision. This legislation has a statutory definition of an exemption from liability for forward-looking statements which the bill broadly defines to include both oral and written statements. Examples include projections of financial items such as revenues and income for the quarter or for the year, estimates of dividends to be paid to shareholders, and statements of future economic performance, such as sales trends and development of new products. In short, forward-looking statements include precisely the type of information that is most important to investors deciding whether to purchase a particular stock.

The SEC currently has a safe harbor regulation for forward-looking statements that protects specified forward-looking statements that were made in documents filed with the SEC. To sustain a fraud suit, the investor must show that the forward-looking information lacked a reasonable basis and was not made in good faith.

The SEC, recognizing the desirability of having some safe harbor for forward-looking statements, has been seeking to define it in regulation.

It has been conducting, in fact, a comprehensive review of its safe harbor regulation. This legislation, as originally introduced by Senators DOMENICI and DODD, would have allowed the SEC to continue this regulatory effort. And Chairman Levitt endorsed that approach. However, the committee print substitute for S. 240, unlike the bill as introduced, abandoned this approach in favor of enacting a statutory safe harbor.

The committee print now before us, in effect, protects fraudulent forward-looking statements. For the first time, such statements would find shelter under the Federal securities law. In a letter to the committee, Chairman Levitt, expressing his personal views about a legislative approach to safe harbor, stated:

> A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones.

The bill, as reported, provides safe harbor protection for all statements except those knowingly made with the expectation, purpose, and actual intent of misleading investors. The committee report states that expectation, purpose, and actual intent are separate elements, each of which must be proven by the investor, otherwise the maker of the statement is shielded.

This language so troubled Chairman Levitt that he wrote to committee members on May 25, the morning of the markup. He stressed that the substitute committee print failed to adhere to his belief that a safe harbor should never protect fraudulent statements.

I want to be very clear about this. No one is arguing whether there should be some provision for a safe harbor. The question is: What should that provision be? What is reasonable? What is proper? What is balanced? What constitutes overreaching? The chairman of the SEC said the following in that letter to the committee on the morning of the markup:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which would allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds.

He warned that the bill's standard of ''knowingly made with the expectation, purpose, and actual intent of misleading investors'' was a far more stringent standard than currently used by the SEC and the courts. The committee report states that the safe harbor provision is intended to encourage disclosure of information by issuance. Encouraging reasonable disclosure is one thing. Encouraging fraudulent projections is obviously yet another.

The safe harbor provision that is in this bill, which was not in the original bill as introduced by Senators DODD and DOMENICI—this safe harbor provision before us would hurt investors trying to make intelligent investment decisions and penalize companies trying to communicate honestly with their shareholders. It runs counter to the entire philosophy of Federal securities laws, the very laws that have helped give us such strong markets, laws that rest on the premise that fraud must be deterred and punished when it occurs. That is one of the major areas in which attention will have to be focused over the next few days.

Next I turn to the proportionate liability provision in the bill. The difficulty with the proportionate liability section in the bill is we need to understand the issue of liability for reckless conduct.

In 1976, the Supreme Court held that a defendant is liable under Federal securities antifraud provisions only if he or she possesses the state of mind known in the law as ''scienter.'' Conduct that is intended to deceive or mislead investors satisfies the scienter requirement. While the Supreme Court did not decide the question, courts in every Federal circuit have held that reckless conduct also satisfies the scienter requirement. This follows the guidance of hundreds of years of court decisions in fraud cases. As the Restatement of Torts states, ''The common law has long recognized recklessness as a form of scienter for the purposes of proving fraud.''

Now, the most commonly accepted definition of reckless conduct was set forth by the Seventh Circuit in the Sundstrand case. That standard—and I will quote it, an order which attached joint and several liability—said:

> A highly unreasonable omission involving not merely simple, or even gross, negligence, but an extreme departure from the standards of ordinary care and which present a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.

Now, recklessness liability is often applied to the issuers' professional advisers—attorneys, underwriters, accountants. And under joint and several liability, all parties who participate in a fraud are liable for the entire amount of the victim's damages—both those parties who intended to mislead the investors, and those whose conduct was reckless.

The rationale for this is that a fraud cannot succeed without the assistance of each participant, so each wrongdoer is held equally liable.

This bill limits joint and several liability under the Federal securities laws to certain defendants, specifically excluding defendants whose conduct was reckless. This change will hurt investors in cases where the perpetrator of the fraud is bankrupt, has fled, or otherwise cannot pay the investors' damages. In those cases, innocent victims of fraud will be denied full recovery of their damages. Chairman Levitt said:

> The Commission has consistently opposed proportionate liability.

Before the Securities Subcommittee, he said:

> Proportionate liability would inevitably have the greatest effect on investors in the most serious cases (for example, where an issuer becomes bankrupt after a fraud is exposed). It is for this reason that the Commission has recommended that Congress focus on measures directly targeted at meritless litigation before considering any changes to the liability rules.

Now, even the authors of the measure before us recognize something of a problem, so they have tried to make

some compensating features with respect to proportionate liability, and we will address those in greater detail when we propose an amendment.

Let me just simply make this point. They would provide coverage to victims with a net worth under $200,000 who lose more than 10 percent of that net worth. Well, that hardly is meaningful. Virtually anyone who owns a home has a net worth of $200,000. And to require many small investors to lose more than 10 percent of that net worth—in other words, you would have to lose $20,000 before you would be made whole by those who have participated in or condoned the fraud.

There is another provision for a 50-percent overage, but neither provision will make fraud victims whole. They will protect only a tiny number of investors. For most investors, the balance of their losses may be uncollectible. So the innocent party is going to be called upon to bear this burden. Just think of the equities of that.

Reckless participation. Participants will no longer be responsible for the result of their conduct. Innocent investors—individuals, pension funds, county governments—will have to make up the loss. This is not fairness—certainly not to the investors.

In addition, I am disappointed that this legislation, as reported, does not contain provisions to help investors bring meritorious suits. In his letter to the members of the Banking Committee, Chairman Levitt stated:

> In addition to my concerns about the safe harbor, there is not complete resolution of two important issues for the Commission. First, there is no extension of the statute of limitations for private fraud actions from 3 to 5 years.

My very able, distinguished colleague from Nevada, who is a member of the subcommittee that considered this legislation, and is extremely knowledgeable on all aspects of it, will later, in the course of the amending process, address this specific provision.

For over 40 years, courts held that the statute of limitations for private rights of action under section 10(b) of the Securities Exchange Act of 1934, the principal antifraud provision of the Federal securities laws, was the statute of limitations determined by applicable State law. While these statutes varied, they generally afforded securities fraud victims sufficient time to discover and bring suit.

In 1991, in the Lampf case, the Supreme Court significantly shortened the period of time in which investors may bring such securities fraud actions. By a 5 to 4 vote, the Court held that the applicable statute of limitations is 1 year after the plaintiff knew of the violation and in no event more than 3 years after the violation occurred. This is shorter than the statute of limitations for private securities actions under the law of more than 60 percent of the States today.

This shorter period does not allow individual investors adequate time to discover and pursue violations of securities laws. Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated ''the timeframes set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.'' Chairman Breeden pointed out that in many cases,

> Events only come to light years after the original distribution of securities and the . . . cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.

The FDIC and the State securities regulators joined the SEC in favor of overturning the Lampf decision.

On this basis, the Banking Committee in 1991 without opposition adopted an amendment to a banking bill. The amendment lengthened the statute of limitations for securities fraud actions to 2 years after the plaintiff knew of the securities law violation, but in no event more than 5 years after the violation occurred.

When the bill reached the Senate floor in November 1991, some Senators indicated they would seek to attach additional provisions relating to securities litigation. They argued that the statute of limitations should not be lengthened without additional reform of the litigation system. No arguments were raised specifically against the extension of the statute of limitations. To expedite consideration of the bill, the extension of the statute of limitations was dropped. Senators DOMENICI and DODD included the extended statute of limitations in their comprehensive securities litigation reform bill, both in the last Congress and in this Congress.

There was no rationale for dropping that provision out. Chairman Levitt testified before the Securities Subcommittee in April 1995, ''extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years.''

I defy any of my colleagues to explain to us why the perpetrator of the fraud ought to be given a shorter period of time in which to get away with this fraudulent conduct.

Finally, let me turn to the failure to restore aiding and abetting liability. This was another matter touched on by Chairman Levitt when he expressed his disappointment that ''the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion.''

Prior to that decision, courts in every circuit in the country had recognized the ability of investors to sue aiders and abettors of securities frauds. Most courts required that an investor show that a securities fraud was committed, that the aider and abettor gave substantial assistance to the fraud, and that the aider and abettor has some degree of scienter—intent to deceive or recklessness toward the fraud.

Why should the aiders and abettors of the fraud escape any liability? As Senator DODD stated at a May 12, 1994, Securities Subcommittee hearing, ''aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others.'' Testifying at that hearing, Chairman Levitt stressed the importance of restoring aiding and abetting liability for private investors:

> persons who knowingly or recklessly assist the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements, directly or indirectly, that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions.

The North American Securities Administrators Association and the Association of the Bar of the City of New York also endorsed restoration of aiding and abetting liability in private actions.

In summing up, let me simply say I support the goal of deterring and sanctioning frivolous securities litigation. This bill, though, will deter legitimate fraud actions as well. By protecting fraudulent forward looking statements, and by restricting the application of joint and several liability, this bill may undermine the investor confidence on which our markets depend. Further, it fails to include provisions that are needed to ensure that investors have adequate time and means to pursue securities fraud actions.

We are not alone in concluding this legislation will threaten our markets by undermining investor confidence. Since the Banking Committee approved this bill we have received letters of opposition from securities regulators, State and local government officials, consumer groups and others, which I will place in the RECORD following this statement.

The assertion is, on the other side, there is a certain private interest involved. We are trying to get at the abuse of the existing securities laws. But, in effect, independent observers, as it were, the securities regulators, local government officials, State government officials, have looked at this thing and they say this is excessive. This is overreaching.

In a June 8, 1995 letter, the Government Finance Officers Association [GFOA] strongly supported our position. Consisting of more than 13,000 State and local government financial officials, the GFOA's members both issue securities and invest billions of dollars of public pension and taxpayer funds. In its letter, the GFOA opposed S. 240 as reported:

> We support efforts to deter frivolous securities lawsuits, but we believe that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that S. 240 does not

achieve this balance, but rather erodes the ability of investors to seek recovery in cases of fraud.

The North American Securities Administrators Association, which represents the 50 State securities regulators, wrote earlier this week ''to express * * * opposition to S. 240 as it was reported out of the Banking Committee.'' The letter expresses ''NASAA's view that the bill succeeds in curbing frivolous lawsuits only by making it equally difficult to pursue rightful claims against those who commit securities fraud.''

And they mention the amendments pertaining to safe harbor, proportional liability, the statute of limitations, and aiding and abetting liability as being desirable changes to be made in this legislation.

On May 23, 1995, 12 separate groups wrote to the Committee, including the National League of Cities, the American Council on Education, and the California Labor Federation of the AFL–CIO They wrote that the committee print ''has not moved at all in the direction of the achieving the balance we believe is so critical.''

The St. Louis Post Dispatch had an editorial headed ''Don't Protect Securities Fraud''; the Los Angeles Times, ''This Isn't Reform—It's a Steamroller: GOP bill curbing lawsuits would flatten the small investor''; the Philadelphia Inquirer, ''Going easy on crooks in 3-piece suits''; and other papers across the country.

Mr. President, I ask unanimous consent that the letters that I cited and earlier made reference to, the articles, and these editorials be printed in the RECORD at the end of my statement.

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

(See Exhibit 2)

Mr. SARBANES. Mr. President, the securities markets are crucial to our economic growth; we should evaluate efforts to tamper with them very, very carefully. I hope in the course of our consideration of this measure over the next few days that Members will focus on the issues. I mean, the issue is not an extreme example for which there are provisions in the bill to deal with, with which no one quarrels. The issues are these items which I have cited about which we have heard from the Chairman of the Securities and Exchange Commission, from the Government Finance Officers Association, from the North American Securities Administrators Association, from a broad range of consumer groups, and from leading editorials and columnists across the country.

I very much hope my colleagues will support amendments to correct the flaws in this legislation. If that were to be done, then we could move forward with a piece of legislation that I think would accomplish the proper balance.

Mr. President, I yield the floor.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protest American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, both the SEC and the Congress are working to find an appropriate ''safe harbor'' from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the commission's role. the relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital market—the two goals of the federal securities law.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should it extend to oral statements? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and federal regulators, law professors, and even federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) ''projections'' would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 25, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that this morning you and the members of the Banking Committee will be considering S. 240 and that you will be offering an amendment in the nature of a substitute. While I have not had the opportunity to analyze fully the May 24th manager's amendment to the Committee print, I appreciate your leadership and efforts to address the concerns of the Commission in drafting your alternative.

The safe harbor provision in the amendment, in my opinion, is preferable to the blanket approach of H.R. 1058. It addresses a number of the concerns pertaining to the size of the safe harbor and the exclusions from the safe harbor. The Committee staff appears to be genuinely interested in the Commission's views of its draft legislation and has attempted to be responsive. I was pleased to see the latest draft deleted the requirement that a plaintiff must read and actually rely upon the misrepresentation before a claim is actionable. Your attempt to tailor the breadth of the safe harbor of the Securities Exchange Act of 1934 to the more narrow safe harbor of the Securities Act of 1933 was encouraging. However, I continue to believe that the definition should be further narrowed to parallel the items contained in my letter of May 19th. Moreover, there remain a number of troubling issues.

I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds. I believe that there should be a direct relationship between the level of scienter required to prove fraud and the types of statements protected by the safe harbor. My letter of May 19th indicated the discreet list of subjects that are suitable for safe harbor protection, assuming a simple ''knowing'' standard. Accordingly, if the Committee is unwilling to lower the proposed scienter level to a simple ''knowing'' standard, the safe harbor should not protect forward-looking statements contained in the management's discussion and analysis section. This would be better left to Commission rulemaking.

In addition to my concerns about the safe harbor, there is no complete resolution of two important issues for the Commission. First there is no extension of the statute of limitations for private fraud actions from three to five years. Second, the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion. I am encouraged by the Committee's willingness to restore partially the Commission's ability to prosecute those who aid and abet fraud; however, a more complete solution is preferable.

I also wish to call your attention to a potential problem with the provision relating to Rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in your draft may have the unintended effect of imposing a ''loser pays'' scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

I would like to express my particular gratitude for the courtesy and openness displayed by the Committee and its staff. I hope we will continue to work together to improve the bill so as to reduce costly litigation without compromising essential investor protections.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

GOVERNMENT FINANCE OFFICERS ASSOCIATION,
Washington, DC, June 8, 1995.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the more than 13,000 state and local government financial officials who comprise the membership of the Government Finance Officers Association (GFOA) to bring to your attention serious concerns we have with the Securities Litigation Reform Act, S. 240, recently approved by the Senate Banking Committee. As you know, the GFOA is a professional association of state and local officials who are involved in and manage all the disciplines of public finance. The state and local governmental entities our members represent bring a unique perspective to this proposed legislation because they are both investors of billions of dollars of public pension funds and temporary cash balances, and issuers of debt securities as well.

We support efforts to deter frivolous securities lawsuits, but we believe that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that S. 240 does not achieve this balance, but rather erodes the ability of investors to seek recovery in cases of fraud.

The strength and stability of our nation's securities markets depend on investor confidence in the integrity, fairness and efficiency of these markets. To maintain this confidence, investors must have effective remedies against those persons who violate the antifraud provisions of the federal securities laws. In recent years, we have seen how investment losses caused by securities laws violations can adversely affect state and local governments and their taxpayers. It is essential, therefore, that we fully maintain our rights to seek redress in the courts.

S. 240 would drastically alter the way America's financial system has worked for over 60 years—a system second to none. Following are the major concerns state and local governments have with this ''reform'' legislation:

Fraud victims would face the risk of having to pay the defendant's legal fees if they lost. S. 240 imposes a modified ''loser pays'' rule that carries the presumption that if the loser is the plaintiff, all legal fees should be shifted to the plaintiff. The same presumption, however, would not apply to losing defendants. The end result of this modified ''loser pays'' rule is that it would strongly discourage the filing of securities fraud claims by victims, regardless of the merits of the cases. This is particularly true for state and local governments that have lost taxpayer funds through investments, involving financial fraud in derivatives, for example, but who simply cannot afford to risk further taxpayer funds by taking the risk that they might lose their case and have to pay the legal fees of large corporations. The argument is made that a modified loser pays rule is necessary to deter frivolous lawsuits, but we understand there are only 120 companies sued annually—out of over 14,000 public corporations, and that the number of suits has not increased from 1974.

Fraud victims would find it exceedingly difficult to fully recover their losses. Our legal standard of ''joint and several'' liability has enabled defrauded investors to recover full damages from accountants, brokers, bankers and lawyers who help engineer securities frauds, even when the primary wrongdoer is bankrupt, has fled or is in jail. S. 240 sharply limits the traditional rule of joint and several liability for reckless violators. This means that fraud victims would be precluded from fully recovering their losses.

Wrongdoers who ''aid and abet'' fraud would be immune from cases brought by fraud victims. As you know, aiders had been held liable in cases brought by fraud victims for 25 years until a 5–4 Supreme Court ruling last year eliminated such liability because there was not specific statutory language in federal securities law. If aiders and abettors are immune from liability, as issuers of debt securities, state and local governments would become the ''deep pockets,'' and as investors they would be limited in their ability to recover losses. The Securities and Exchange Commission and the state securities regulators have recommended full restoration of liability of aiders and abettors and GFOA supports that recommendation.

Wrongdoers would be let off the hook by a short statute of limitations. We had supported the modest extension of the statute—

from one year from discovery of the fraud but no more than three years after the fraud to two years after the violation was, or should have been, discovered but not more than five years after the fraud was committed—that was contained in an earlier version of S. 240. We are disappointed that this extension was removed in the Committee's markup of the legislation and hope it will be restored when the full Senate considers the bill.

Under S. 240, corporations could deceive investors about future events and be immunized from liability in cases brought by defrauded investors. Corporate predictions are inherently prone to fraud as they are an easy way to make exaggerated claims of favorable developments to attract investors. The ''safe harbor'' in S. 240 is a very broad exemption and immunizes a vast amount of corporate information so long as it is called a ''forward-looking statement'' and states that it is uncertain and there is risk it may not occur. Such statements are immunized even if they are made recklessly. We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Access to fair and full compensation through the civil justice system is an important safeguard for state and local government investors, and is a strong deterrent to securities fraud. We believe. S. 240 as written does not provide such access to state and local governments or to other investors. Just as state and local government investors are urged to use extreme caution in investing public funds, the Senate should use extreme caution in reforming the securities regulation system.

We hope you will work to bring about needed changes in the legislation when it is considered by the full Senate. If there is any way we can help in this effort, please do not hesitate to call on us.

Sincerely,

CATHERINE L. SPAIN,
Director, Federal Liaison Center.

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, June 20, 1995.

Re S. 240, the ''Private Securities Litigation Reform Act.''

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: The full Senate may consider as early as Wednesday or Thursday of this week, S. 240, the ''Private Securities Litigation Reform Act of 1995.'' On behalf of the North American Securities Administrators Association (NASAA), we are writing today to express the Association's opposition to S. 240 as it was reported out of the Banking Committee. In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

While everyone agrees on the need for changes to the current securities litigation system, not everyone is prepared to deny justice to defrauded investors in the name of such reform. Proponents of the bill make two claims: first, that they have modified the bill to satisfy many of the objections to the earlier version; and second, that the bill will not prevent meritorious claims from going forward. Neither claim is accurate. First, the changes made to the bill do little to resolve the serious objections to S. 240 raised by NASAA and its members. In fact, it may be argued that during the Banking Committee's deliberations the bill was made less acceptable from the perspective of investors. Second, it is NASAA's view that the bill succeeds in curbing frivolous lawsuits only by making it equally difficult to pursue rightful claims against those who commit securities fraud.

The reality is that the major provisions of S. 240 will work to shield even the most egregious wrongdoers among public companies, brokerage firms, accountants and others from legitimate lawsuits brought by defrauded investors. Do we really want to erect protective barriers around future wrongdoers?

NASAA agrees that there is room for constructive improvement in the federal securities litigation process. The Association supports reform measures that achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may unfairly find themselves the targets of frivolous lawsuits. Regrettably, S. 240 as approved by the Senate Banking Committee fails to achieve this necessary balance.

Although this bill has been characterized in some quarters as an attempt to improve the cause of defrauded investors in legitimate lawsuits, that simply is not the case. Attempts to incorporate into the bill provisions that would work to the benefit of defrauded investors were rejected when the Banking Committee considered the bill. At the same time, the few provisions in the original bill that may have worked to the benefit of defrauded investors were deleted.

For example, during the Committee' deliberations: (1) the rather modest extension of the statute of limitations for securities fraud suits contained in the original version was deleted; (2) attempts to fully restore aiding and abetting liability under the securities laws were rejected; (3) a regulatory safe harbor for forward-looking statements contained in the original version of S. 240 was replaced with an overly broad safe harbor for such information, making it extremely difficult to sue when misleading information causes investors to suffer losses; and (4) efforts to loosen the strict limitations on the applicability of joint and several liability were rejected, making it all but impossible for more than a very few to ever fully recover their losses when they are defrauded. The truth here is that this is a one-sided measure that will benefit corporate interests at the expense of investors.

As state government officials responsible for administering the securities laws in our jurisdictions, we know the important role private actions play in the enforcement of our securities laws and in protecting the honesty and integrity of our capital markets. The strength and stability of our nation's securities markets depend in large measure on investor confidence in the fairness and integrity of these markets. In order to maintain this confidence, it is critical that investors have effective remedies against persons who violate the anti-fraud provisions of the securities laws.

When S. 240 is considered on the Senate floor, it is expected that several pro-investor amendments will be offered in an attempt to inject some balance into the measure. Among the amendments we expect to be offered are those that would: (1) extend the statute of limitations for private securities fraud actions; (2) fully restore aiding and abetting liability under the securities laws; (3) replace the expansive safe harbor for foward-looking statements with a directive to the Securities and Exchange Commission to continue its rulemaking efforts and report back to Congress; and (4) lift the severe limitations on joint and several liability so that defrauded investors may fully recover their losses.

On behalf of NASAA, we respectfully encourage you to vote in favor of all such amendments when they are offered on the Senate floor. If all four amendments are not adopted, we respectfully encourage you to oppose S. 240 on final passage.

NASAA regrets that the Association cannot support the litigation reform proposed as reported out of the Senate Banking Committee. The Association believes that this issue is an important one and one that should be addressed by Congress. However, NASAA believes that is more important to get it done right than it is to get it done quickly. S. 240 as it was reported out of the Banking Committee should be rejected and more carefully-crafted and balanced legislation should be adopted in its place.

If you have any questions about NASAA's position on this issue, please contact Maureen Thompson, NASAA's legislative adviser.

Sincerely,

PHILIP A. FEIGN,
Securities Commissioner, Colorado Division of Securities, President, North American Securities Association.

MARK J. GRIFFIN,
Director, Utah Securities Division, Chairman, Securities Litigation Reform Task Force of the North American Securities Administrators Association.

AMERICAN COUNCIL ON EDUCATION, CALIFORNIA LABOR FEDERATION—AFL–CIO, CONGRESS OF CALIFORNIA SENIORS—LA COUNTRY, CONSUMER FEDERATION OF AMERICA, CONSUMERS FOR CIVIL JUSTICE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, GOVERNMENT FINANCE OFFICERS ASSOCIATION, GRAY PANTHERS, NATIONAL LEAGUE OF CITIES, NEW YORK STATE COUNCIL OF SENIOR CITIZENS, NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, U.S. PUBLIC INTEREST RESEARCH GROUP,
May 23, 1995.

Re: securities litigation reform.

Hon. ALFONSE D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN D'AMATO: Our organizations have been actively involved in the securities litigation reform debate. We are writing today to express the very serious concerns our organizations and individual members have with the major provisions of S. 240, the ''Private Securities Litigation Reform Act,'' introduced by Senators Dodd and Domenici, and with the substitute language that emerged on Monday.

Let us be clear: our organizations strongly believe that any securities litigation reform must achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may find themselves the target of a frivolous lawsuit. We agree that abusive practices should be deterred, and where appropriate, sternly sanctioned. At the same time, the doorway to the American system of civil justice must remain open for those investors who believe they have been defrauded.

Although we understand that some of the specifics of S. 240 remain under discussion,

we are extremely disappointed to see that the substitute language now being circulated (and expected to be marked up on Thursday, May 25th) has not moved at all in the direction of achieving the balance we believe is so critical to resolving this debate. While we appreciate the fact that some of the provisions we found most objectionable in the bill as introduced were deleted, we are dismayed to find other equally troubling provisions inserted in the new draft. Perhaps most disturbing is that the one pro-investor provision found in S. 240 as introduced—the extension of the statute of limitations—has been dropped entirely in the latest version of the bill.

Collectively, our organizations and those with which we have worked closely on this issue represent tens of millions of ordinary Americans who increasingly must rely on investments to build retirement nest eggs, finance the college education of children, and to save for major purchases, such as a home. The organizations represent the thousands of state and local governments, that participate in the securities markets both as investors of pension funds and temporary cash balances and as issuers of municipal debt. Our ranks also include colleges and universities and other institutions of higher learning, as well as labor organizations, that participate in the securities markets as investors of endowment and pension funds.

Our general and primary concerns with respect to the provisions of S. 240, as well as with other proposals that now are under discussion or are present in the House version of this legislation, include;

Unreasonable standards for fraud pleadings, burden of proof and damages;

Any form of ''means testing'' for access to justice of recovery, including conferring a special status on certain, larger investors;

Limits on joint and several liability that will work to immunize from liability certain professional groups;

''Loser pays'' rules;

Expansive safe harbor exemptions from private liability for forward looking statements (we believe the more appropriate response is SEC rulemaking in this area); and

Expanding the scope of this bill to go beyond cases involving private class actions brought under the 1934 Securities Exchange Act.

At the same time, we have expressed support for major reform proposals, including:

An early evaluation procedure designed to weed out clearly frivolous cases, with sanctions imposed in certain instances;

A more rational system of determining liability based on proportionate liability for reckless violators and joint and several liability for knowing violators, with provisions made for special circumstances in which knowing securities violators are unable to satisfy a judgment;

The right to contribute among liable defendants according to proportionate responsibility.

Certification of complaints and improved case management procedures;

Improved disclosure of settlement terms;

Curbs on potentially abusive practices on the part of plaintiffs' attorneys;

A reasonable extension of the statute of limitations for securities fraud suits; and

Restoration of liability for aiding and abetting securities fraud.

Although some people may mistakenly believe that the markets run on money, the truth is that the markets run on public confidence. As investors ourselves and as representatives of investors, we can tell you that the confidence we have in the marketplace will be dramatically altered if we come to believe that not only are we at risk of being defrauded, but that we will have no recourse to fight back against those who have victimized us. We fear that is exactly what will be the case if S. 240 or its substitute version is enacted. There should be little doubt that under such a scenario many investors will seriously reconsider whether they want to remain in the marketplace.

Finally, we want to take this opportunity to put to rest the frequently voiced claim that no defrauded investor with a meritorious case will be denied justice under these reform proposals. That is just plainly and demonstrably untrue.

Any questions about this letter should be directed to any of the contacts listed below:

Contacts;

American Council on Education: Shelly Steinbach.

CA Labor Federation—AFL–CIO: Bill Price.

Congress of CA Seniors—LA County: Max Turchen.

Consumer Federation of America: Mern Horan.

Consumers of Civil Justice: Walter Fields.

International Brotherhood of Teamsters: Bart Naylor.

Government Finance Officers Association: Cathy Spain.

Gray Panthers: Dixie Horning.

National League of Cities: Frank Shafroth.

New York State Council of Senior Citizens: Eleanor Litwak.

North American Securities Administrators Association: Maureen Thompson.

U.S. Public Interest Research Group: Ed Mierzwinski.

MAY 24, 1995.

Re oppose S. 240—devastating for consumers, seniors, investors.

Hon. PAUL S. SARBANES,
Senate Committee on Banking, Housing, and Urban Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: We are writing to express our strong opposition to S. 240, the so-called ''Private Securities Litigation Reform Act.'' In our earlier analysis of the bill (January 25, 1995), we discussed the eight most harmful provisions for consumers, seniors, and investors. We stressed that S. 240 would effectively eliminate private enforcement of the securities law and greatly reduce the likelihood that innocent victims of fraud could recover their losses from corporate and individual wrongdoers.

Now that the Banking Committee's substitute has been issued in preparation for the markup on Thursday, May 25, we are deeply concerned that the bill has not moved in the direction of balanced reform. On the whole, the bill is now even worse for average Americans. The intentions of the Senate Banking Committee's substitute bill are clear—to promote the interests of big corporations, big accounting firms, big brokerage firms and big investment banking houses at the expense of average Americans. The bill is now entirely anti-consumer, anti-senior, anti-investor, and pro-defendant, pro-industry, and pro-wealthy. Any pretensions of protecting small investors and meritorious fraud actions have been abandoned.

Only one of our concerns (the insider-dominated disciplinary board for accountants) has been addressed, while seven deeply troubling provisions remain or have gotten even worse. We have attached a consumer critique of the Banking Committee's substitute which explains our strong opposition, as well as a recent article which highlights the urgency of our concerns.

S. 240 strikes a blow to the heart of the middle class and average, hard-working Americans who depend on the federal securities system to protect their savings, investments, and retirements. A study published in the 1991 Maine Law Review found that 87% of managers surveyed were willing to commit financial statement fraud, more than 50% were willing to overstate assets, 48% were willing to understate loss reserves, and 38% would ''pad'' a government contract. In addition, securities fraud is increasing at an alarming rate. Cases brought by federal and state regulators have increased by more than 45% in just five years.

Moreover, a new major financial fraud that could rival the savings and loan fiasco—involving high-risk, highly speculative derivative securities—is just being discovered. Orange County is not alone. Already, 40 American communities and public institutions across the country have reported derivatives losses totalling some $3 billion. And indications are that fraud may have played a large role in many of those disasters.

Clearly, this is no time to be immunizing fraud and removing vital investor protection laws that have served American consumers so well for decades. We urge you to vote against S. 240 in the markup on Thursday.

Sincerely,

RICHARD VUERNICK,
Legal Policy Director, Citizen Action.

MERN HORAN,
Legislative Representative, Consumer Federation of America.

MARY GRIFFIN,
Counsel, Consumers Union.

JOAN CLAYBROOK,
President, Public Citizen.

EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.

M. KRISTEN RAND,
Director of Federal Policy, Violence Policy Center.

Attachment.

[From the New York Times, May 22, 1995]

FRIENDS OF FRAUD?

(By Anthony Lewis)

Of all the bills making their way through this Congress, the most devastating to its area of the law may be one that has had relatively little attention: legislation to weaken the protection of the public against securities fraud.

The House passed a bill in March. Now the Senate Banking Committee is working on its version. To judge how devastating the legislation would be, consider what it would have done to some of the most notorious recent fraud cases.

In the 1980's Prudential Securities brokers lure customers to invest in risky securities with deliberately false statements about how much they would make. The defrauded investors and the Securities and Exchange Commission sue Prudential Securities, and in the S.E.C. case alone the firm agreed to repay more than $700 million to the victims.

The victims would probably have been unable to sue if one section of the current House bill had been law. Known as the ''safe harbor'' provision, it immunizes from suits by the defrauded all ''forward-looking statements'' about securities. Companies and their agents could make false ''projections'' and ''estimates'' of future performance, even if they were deliberate lies, without fear of lawsuits by those defrauded.

The chairman of the S.E.C., Arthur Levitt Jr., is concerned about the ''safe harbor'' provision. He has just written to the Senate

committee urging it not thus to protect ''purposefully fraudulent'' financial predictions.

That is not the only part of the pending legislation that would make it difficult—perhaps impossible—for victims of fraud to sue. Another is a provision of the House bill requiring anyone who brings a securities fraud suit to show at once, when he or she sues, the state of mind of the defendant indicating fraudulent intent. That kind of information is usually found only during the discovery phase of a case.

For example, two months ago shareholders in Koger Properties Inc. won an $81.3 million judgment in a fraud suit against its accounting firm, Deloitte & Touche. During pretrial discovery, the plaintiffs' lawyers found that the partner in charge of the audit owned stock in Koger, a violation of accounting standards. They could not have known that when they sued.

Still another provision of the House bill, and the Senate's as it stands, would limit what is called ''joint and several liabilities.'' That allows the victims of fraud to recover from others involved if the principal fraud perpetrator is not able to pay.

Last month, for example, Steven Hoffenberg of Towers Financial Corporation pleaded guilty to securities fraud and criminal conspiracy in a Ponzi scheme that cost investors $460 million. He said his accountants and lawyers helped carry out the fraud by issuing false financial statements and making misleading statements to the S.E.C. Towers is bankrupt, so the victims are suing the lawyers and accountants.

Some of the worst scams in recent history would have left the defrauded investors with little or no recourse if the ''joint and several liability'' limit had been in effect. The victims of Charles Keating, the great savings and loan swindler, would have been out of luck when he went to prison and said he was broke.

The legislation sounds highly specialized, and it is. But it would have widespread effects on real people. In addition to individual investors who have been defrauded, many local governments have lost large sums in recent years and are suing brokerage firms and others. The big example is Orange County, California, which lost more than $1 billion, but there are dozens more.

It is a peculiar time to weaken legal protections: a time of spectacular financial frauds. The latest involves the Foundation for New Era Philanthropy, whose scam attracted many charities and such investors as Lawrence S. Rockefeller and William E. Simon. New Era collapsed last week, and the S.E.C. charged its founder with ''massive'' securities fraud.

But this Congress evidently does not care a lot about the victims of fraud. It is listening to the lobbyists for accounting firms and insurance companies, whose political action committees have made large campaign contributions, and others who want to operate without fear of being sued for securities fraud.

CONSUMERS UNION, CONSUMER FEDERATION OF AMERICA, U.S. PUBLIC INTEREST RESEARCH GROUP, CITIZEN ACTION, PUBLIC CITIZEN, VIOLENCE POLICY CENTER

CONSUMER CRITIQUE OF S. 240 ''PRIVATE SECURITIES LITIGATION REFORM ACT''

(1) Abrogation of joint and several liability, which would effectively immunize professional wrongdoers. The original S. 240 eliminated joint and several liability in a wide class of cases, favoring large corporations, accountants, brokers and bankers—who have been found liable—over defrauded victims. The substitute S. 240 restricts joint and several liability even further.

Under joint and several liability, if one wrongdoer is found liable but has no assets, the victim can be reimbursed fully by the other wrongdoers, without whose assistance the fraud could not have succeeded. This traditional aspect of America's legal system for fraud is based on the policy that it is more fair for other wrongdoers to pay for a loss that cannot be collected from one of the co-conspirators than it is for the victims to go uncompensated. The rule has enabled swindled consumers to recover full damages from accountants, brokers, bankers, lawyers and other wrongdoers who participate in securities scams, even when the primary wrongdoer has no assets left, has fled, or is in jail.

The original S. 240 sharply limited this rule, immunizing reckless wrongdoers from joint and several liability. If S. 240 had been in effect, most investors would not have recovered their life savings in the Charles Keating/Lincoln Savings & Loan debacle. Although Keating had become bankrupt, the victims recovered their damages from the accountants, bankers, and lawyers who assisted Keating. Despite extensive testimony to Congress that restricting joint and several liability will reduce recoveries for defrauded victims and encourage more fraud, the substitute bill restricts joint and several liability even further.

Under the substitute, in the all-too-often cases where a knowing violator's share is uncollectible, the liability of reckless violators for the uncollectible share would be subject to a lower ''cap'' than under the original bill. The rest of the uncollectible share simply will be lost to the defrauded victims. Although the ''cap'' would not apply to victims with a net worth over $200,000 and recoverable damages of more than 10% of their net worth, that basically eliminates anyone who owns a house.

Adjudged perpetrators of securities fraud are given a gift while fraud victims are denied full recover of the money that was stolen from them—that is the policy of S. 240. Under the substitute, it will be virtually impossible for many victims of fraud to recover a large part of their losses.

(2) Failure to restore the liability of those who aid and abet fraud. The original S. 240 failed to restore aiding and abetting liability for accountants, lawyers, brokers, bankers and others who assist primary wrongdoers in committing securities fraud. The substitute also fails to do so.

Last year, in the Central Bank of Denver case, the Supreme Court overturned in a 5–4 ruling 25 years of established precedent (including all 11 federal appellate courts that addressed the issue) by wiping out aiding and abetting liability of accountants, lawyers, brokers, bankers and others who assist primary wrongdoers in committing securities fraud. This right of action has played a vital role in compensating swindled consumers in the major financial frauds of the last several decades and must be restored by Congress. Central Bank severely weakens the deterrence of securities fraud because it sends a dangerous signal to the markets that a primary enforcement tool has been eliminated. That not only hurts defrauded consumers, it hurts all Americans. S. 240 fails to address this issue for obvious reasons—the entire thrust of the bill is to further immunize defendants from liability.

In their Congressional testimony, the Securities and Exchange Commission (''SEC'') and state regulators recommended restoring aiding and abetting liability. Even Senator Dodd has stressed the importance of restoring the liability of those who aid and abet securities fraud. During a May 12, 1994 hearing before the Senate Subcommittee on Securities, Senator Dodd stated ''Lawyers, accountants, and other professionals should not get off the hook, in my view, when they assist their clients in committing fraud . . . The Supreme Court has laid down a gauntlet for Congress . . . In my view, we need to respond to the Supreme Court decision promptly and I emphasize promptly.''

(3) Discrimination against small shareholders. The original S. 240 contained a blatantly discriminatory wealth-test for filing securities fraud class actions. The substitute replaces the wealthiest with an equally discriminatory wealth-control provision.

The substitute adds a new provision that sets up a strong presumption that the ''most adequate plaintiff'' in any private class action is the plaintiff that has the largest financial interest in the outcome of the action. The bill then grants this ''most adequate plaintiff'' the power to select the lead counsel and control the case, including settling for any amount or even dismissing the case.

Perhaps no other change to S. 240 makes plainer the real motives behind the bill and makes hollower any pretensions to protect meritorious fraud actions. This ''most affluent plaintiff'' requirement would have a devastating effect on average consumers who are defrauded in the securities markets. Mutual funds and large investors, who may have close ties to big corporate fraud defendants (e.g., mutual fund managers enjoy ready access to information from corporate managers) and who may care less about full recovery because its loss reflects a smaller proportion of total investment than smaller investors' losses, can afford to accept less than full recoveries, would have complete control over class actions at the expense of average investors. What makes a mutual fund that has lost $1 million of its $1 billion portfolio more adequate to represent a class of defrauded investors than an elderly widow who has lost $27,000 out of her $30,000 net worth?

Aside from raising the specter of collusive intervention by large investors simply to dismiss cases or enter into sweetheart settlements, the substitute virtually precludes small investors from being able to obtain attorneys willing to invest their time on cases in which they can have no control and may not be paid fairly (or at all) by lead counsel.

This provision also directly contradicts the primary rationale for class actions—to give average investors who cannot afford to litigate against major corporate defendants on their own a means by which they could band together to seek a remedy for their losses.

(4) Inadequate efforts to deal with unwarranted secrecy. As we outlined in our January letter, the original S. 240 made no effort to address the serious problem of defendant-coerced secrecy orders covering all the underlying documents relevant to the fraud. These orders remain in effect throughout the litigation and generally require that, once a case is terminated, the documents be destroyed or returned to the defendants. Such secrecy orders block significant corporate wrongdoing from public scrutiny and allow defendants, at the time of settlement, to proclaim their innocence without fear of contradiction. The substitute continues to ignore this problem, further demonstrating that the bill is not really intended to solve the real problems in securities litigation.

(5) Imposition of ''loser pays'' fee shifting. The original S. 240 abrogated a 200-year-old legal principle reflecting our national policy in favor of access to justice. It did so by requiring losing parties who decline to accept out-of-court resolution of their cases to pay all of the prevailing parties' legal fees and costs.

The substitute simply replaces this ''loser pays'' rule with a different ''loser pays''

rule—mandatory sanctions under Rule 11 of the Federal Rules of Civil Procedure which includes a strong presumption in favor of shifting all legal fees and costs to the loser. The new provision suffers from the same flaw as the original—average consumers who have just lost their retirement savings in a financial fraud cannot afford to take the risk that they might lose their house as well if they lose their case. Moreover, the new rule would prolong cases, waste more resources on litigating additional issues, and add to the money spent on legal fees by requiring the court to make specific findings regarding compliance by every party and every attorney, even when no party requests it.

The end result of this ''loser pays'' rule will be a severe chill on the assertion of securities fraud claims, regardless of their merits.

(6) Free reign for false statements. The original S. 240 allowed the SEC to consider creating a safe harbor exemption for corporate predictive statements—the substitute creates a ''safe ocean'' exemption from fraud liability for corporate predictions that essentially grants would-be wrongdoers a license to lie. The substitute adopts a wholesale exemption which would completely immunize a vast amount of corporate information (''any statement, whether made orally or in writing, that projects, estimates, or describes future events'') so long as it is called a forward-looking statement and states that it is uncertain and may not occur, even if they are made with reckless disregard for their accuracy. This is a gaping loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Corporate ''forward-looking statements'' are prone to fraud as they are an easy way to make exaggerated claims of favorable developments in order to attract cash. They continue to be a favorite tool of con artists, promoters and illegal insider traders to artificially pump up the price of public company stock in order to profit at investors' expense. The substitute's safe harbor provision creates an incentive to provide bad information to consumers and a disincentive to provide the best available information. It would effect an upheaval in the mandatory corporate disclosure system in the United States, with immense potential adverse market consequences.

Finally, by itself, the safe harbor would eliminate many, if not most, fraud class actions. The safe harbor provision would require, with limited exemptions, that every class action member prove actual knowledge of and reliance on the fraudulent statement, an (almost) impossible requirement in class action suits. Under this provision, even purposefully fraudulent forward-looking statements could be made without the possibility of redress through a class action lawsuit.

The SEC is currently in the middle of a rulemaking proceeding to study forward-looking statements and has requested that Congress allow it to complete its process. We believe that Congress should defer establishing a safe harbor provision until the agency experts have thoroughly reviewed this matter.

(7) A flawed limitations period. The current statute of limitations—1 year from discovery of the fraud but in no event more than 3 years after the fraud—is generally regarded as too short. The original S. 240 extended the period to 2 years after the violation was or should have been discovered but not more than 5 years after the fraud. Rather than heed the SEC and the state securities regulators, who testified that the limitations period should be even longer, the substitute simply drops the extension entirely. There is now not a single provision in the bill that would increase recoveries for fraud victims—it is totally one-sided and should really be called the ''Wrongdoer Protection Act of 1995.''

(8) An insider-dominated disciplinary board for accountants. The substitute deletes the provision of the bill that would have allowed the trade association for the accountants—the AICPA—to be a sham self-disciplinary board for public accountants. This is the only one of our original concerns that has been adequately addressed by the substitute bill.

[From the Washington Post, June 18, 1995]

MAKING IT EASIER TO MISLEAD INVESTORS

(By Jane Bryant Quinn)

A lawsuit-protection bill speeding through Congress will give freer rein to Wall Street's eternal desire to hype stocks.

It's cast as a law against frivolous lawsuits that unfairly torture corporations and their accountants. But the versions in both the House and Senate do far more than that. They effectively make it easier for corporations and stockbrokers to mislead investors. Class action suits against the deceivers would be costly for small investors to file and incredibly difficult to win.

I'm against frivolous lawsuits. Who isn't? But these bills would choke meritorious lawsuits, too. They affect only claims filed in federal court, so bilked investors would still have the option of seeking justice in a state courts. But the federal law would set a terrible precedent and leave the markets more open to fraud.

The congressional proposals started out as a way of protecting companies against so-called strike suits—lawsuits filed against companies whose stock price unexpectedly plunges.

The companies complain that ''vulture lawyers'' lie in wait for these drops in price. When they occur, the lawyers find willing plaintiff and immediately file suit. The usual charge: that the firm, its executives and accountants misled investors with falsely optimistic statements. That's not true, the companies say, but they tend to settle just to avoid the legal expense. If so, this represents a grave cost—on corporations, shareholders and economic efficiency.

But are strike suits really overwhelming corporations? There's evidence on both sides of this issue, but most of it fails to document the executives' broad complaints.

As an example, take the new study by Baruch Lev, a professor at the University of California at Berkeley. He looked at public companies whose share price fell more than 20 percent in the five days around the time of a disappointing quarterly earnings report. There were 589 such cases, from 1988 through 1990. But related class action suits were filed against only 20 of the firms.

Lev compared those 20 companies with similar firms where no lawsuits were filed. Among other things, the litigated companies tended to put out rosy statements—in some cases, just before releasing the bad earnings report. By contrast, the firms that weren't sued tended to publish more sober statements and to warn investors in advance that earnings would be lower than expected.

Lev warns that his sample is too small to reach statistical conclusions. But his basic data undermine the claims that companies are bombarded with lawsuits whenever their stock goes down.

The new bills contain many provisions to worry investors. For example, if you lost a class action suit, you might have to pay the legal fees for the other side. Psychologically, that could stop you from suing no matter how badly you'd been burned.

The bills also give excessive protection to so-called forward statements, which are the business projections that corporations make.

Under current law, it's all right to make a reasonable projection, even if it doesn't come true. But a company can be held liable for making an unreasonable projection that misleads investors. In many of the cases where lawsuits are brought, ''executives are telling the public that everything is going to be great while they're bailing out and selling their own stock,'' Jonathan Cuneo, general counsel of the National Association of Securities and Commercial Law Attorneys, told my associate Louise Nameth.

If these bills become law, however, companies could get away with making misleading, even reckless statements. To win a class action lawsuit, you would have to prove that a falsehood was uttered with a clear intent to deceive. That's incredibly tough to do.

This provision, in particular, troubles Arthur Levitt Jr., chairman of the Securities and Exchange Commission. ''The law should not protect persons who make material statements they know to be false or misleading,'' he says, ''nor should it protect offerings such as penny stocks, nor persons who have committed fraud in the past.''

Baseless lawsuits do indeed exist. Lawyers may earn too much from a suit, leaving defrauded investors too little. The incentives to sue should be reduced. But not with these bills. They'd let too many crooks get away.

[From U.S. News & World Report, June 26, 1995]

WILL CONGRESS CONDONE FRAUD?

(By Jack Egan)

Some of the most unpopular people in Washington these days are shareholders' lawyers who sue companies at the drop of a stock, usually claiming that management deceived investors about the outlook and is liable for losses when shares fall.

Lawmakers have concluded—without much supporting evidence—that this happens far too frequently, hamstringing corporations and causing executives to be wary of making forecasts. And so legislation is zipping through Congress to curb ''frivolous'' or ''speculative'' lawsuits against public companies. The high-sounding Private Securities Litigation Reform Act of 1995 easily passed the House in March. It was approved by the Senate's banking panel and will soon be taken up by the full body.

It just might come to be remembered as legislation that steeply tilted the playing field against investors. The bill may make executives feel easier about discussing what they see ahead, with shareholders benefiting from more candid disclosure. But it makes it very hard for shareholders to sue over legitimate grievances. The House version even protects management when it lies, provided the deception is a projection.

Unhappy Levitt. The Securities and Exchange Commission, which has always viewed private actions as complementing its own limited enforcement abilities, is not happy. In a letter to Senate Banking Committee Chairman Alfonse D'Amato sympathizing with ''the punishing costs of meritless lawsuits,'' SEC Chairman Arthur Levitt also wrote that the House-passed bill might ''compromise investor protection.'' And while the Senate Banking Committee's bill is more moderate, the SEC chairman complained in another letter that shareholders were still hampered from bringing suits against ''all but the most obvious frauds.''

The crusade to throttle shareholder lawsuits has been spearheaded by high-tech companies and the big accounting firms. The stocks of technology companies tend to be quite volatile, flying high and suddenly nose-

diving, often when companies fail to meet ambitious earnings expectations. That makes them especially vulnerable to mugging by lawsuit; according to the American Electronics Association, which represents the industry, 9 out of 10 suits are settled out of court—averaging $8.6 million—simply to avoid the cost of lengthier litigation.

But claims that nuisance lawsuits are hurting the ability of such companies to raise capital come at a time when technology shares have led the stock market to an all-time high and initial public offerings are running at record levels. ''There are 200 to 300 companies sued each year out of 20,000 that are registered,'' notes Democratic Sen. Richard Bryan of Nevada—about the same as 20 years ago. ''I also oppose frivolous lawsuits, but that issue is really a trojan horse for firms that simply want to limit their liability.''

The accounting firms felt stung by large liability verdicts against them in connection with the S&L scandal of the early 1990s. But the cases that produced the biggest judgments were brought not by individual shareholders but by the federal government, seeking to recoup its depleted S&L insurance fund. Nevertheless, the ''Big Six'' are eagerly backing the bill because it would bar shareholders from suing outsiders who are parties to securities fraud—like accountants.

When the full Senate debates the bill, perhaps at the end of June, efforts may be made to make it less hostile to shareholders and to deal with some of the SEC's objections. The Clinton administration has yet to weight in. But a veto threat from the president would be risky, since the lopsided vote in the House is enough for an override.

Shareholders already are barred from suing brokerages and must arbitrate instead. ''The pendulum had swung too far toward the lawyers, and now it's swinging too far the other way,'' notes Richard Kraut, an attorney with Washington-based Storch & Brenner, which specializes in securities law. ''Unfortunately, some major investor frauds may have to take place before it again moves back toward the center.''

[From the St. Louis (MO) Post-Dispatch, May 9, 1995]

DON'T PROTECT SECURITIES FRAUD

The House has passed and the Senate is considering a bill to make it much harder for defrauded investors to bring class-action suits against investment firms that defraud them, as well as the accountants who helped them. The impetus for such legislation is the same as that driving tort revision, only with even less justification.

The Senate bill is sponsored by New Mexico Republican Pete Domenici and, surprisingly, Christopher Dodd, Democrat of Connecticut. Though its final provisions have yet to be settled, it is likely to restrict significantly the rights of small investors to sue for fraud.

The industry's complaint: The explosion of securities litigation needs to be curbed. But there isn't one; the number of suits has remained nearly constant in the last 20 years, despite huge growth in the volume of securities. However, recent events have created a new problem: Many accounting firms that put their names to false documents during the junk bond craze and the thrift debacle are finding themselves in court more often than ever before. They want protection. This bill would give it to them.

It would prohibit lawyers and accountants from being named as primary defendants in a class action unless the plaintiffs first can show that these defendants had actual knowledge of the fraud and the precise state of mind of those they helped perpetrate it. That can only be done by the discovery process in a lawsuit, not beforehand. The bill would also bar any plaintiff from suing who had less than 1 percent or $10,000 invested in the securities in question. This will keep a lot of people out of court.

When they do get in, if they lose, they will be responsible for court costs if they have holdings of more than very limited size, clearly a deterrent to small-investor suits for securities fraud.

These are just the highlights of a complex bill whose provisions work against not only the rights of small investors, but even large government bodies, such as Orange County or the city of Joplin, Mo., which lost huge amounts on derivatives that may have been sold to them without full disclosure.

Among those senators on the Banking Committee who are in a position to slow down the bill is Missouri's Christopher S. Bond. He should do so. His new colleague from Missouri, John Ashcroft, who has yet to take a position on the bill, should join him.

[From the Los Angeles (CA) Times, Mar. 12, 1995]

THIS ISN'T REFORM—IT'S A STEAMROLLER: GOP BILL CURBING LAWSUITS WOULD FLATTEN THE SMALL INVESTOR

Once again House Republicans have put the timetable for their ''contract with America'' ahead of the substance of the bills they are ramming through the lower chamber. On Wednesday the House approved a drastic revision of the nation's securities laws as part of the GOP's agenda for legal reform. The proposed Securities Litigation Reform Act, which is a key provision in the ''contract,'' would sharply curb the ability of investors and shareholders to sue stockbrokers, accounting firms and companies for fraud.

The measure, authored by Rep. Christopher Cox (R–Newport Beach), simply goes too far. It is one thing to craft legislation directed at curbing specific abuses of securities litigation, but the House measure would amount to a wholesale dismantling of the system that enables investors and shareholders to seek redress for financial fraud.

Opponents, including state securities administrators as well as consumer groups, maintain that the bill would virtually destroy the ability of citizens of modest means to sue when they are victims of fraud. Arthur Levitt Jr., the chairman of the Securities and Exchange Commission, who has worked to improve investor protections, has reservations about the measure. So has U.S. Atty. Gen. Janet Reno. Small wonder.

The proposed law would tilt the legal system in favor of corporations and their accounting firms, lawyers and investment firms by making it too easy for them to defend themselves against shareholder suits.

What might such a law portend for cases like Orange County? County officials are seeking legal recourse against Merrill Lynch Co., which sold high-risk securities to the county's ill-fated investment pool, utilmately triggering its bankruptcy. The fear is that the proposed law could be interpreted by the courts in ways that would work against plaintiffs in cases like this one.

Under the House bill, a judge could require the losers in a securities fraud case to pay the legal expenses of the winner if the judge determined that the investors' complaint did not originally possess substantial merit. Currently there is no ''loser pays'' general provision. The proposed law also would demand that the plaintiff show that the company or its officials acted knowingly and recklessly in committing the fraud. The current standards are simpler: They allow investors to sue for fraud if a company withholds information or issues misleading information that affects the market price.

Between these two standards there perhaps is a sensible middle ground—but that's not to be found in the House bill.

Cox casts his bill as a limitation against so-called ''strike suits,'' brought by shareholders who file lawsuits when the share price drops in a company in which they own a small part of the stock. The congressman likes to point out that high-technology companies are a favorite target of such lawsuits. Abuses of such lawsuits absolutely do exist and should certainly be curbed, but the House bill, as drawn, is overly broad in its potential application.

The Senate will take up the securities reform bill soon. We urge it to take a reasoned approach to the problems posed by frivolous securities lawsuits. The current House bill is not the answer.

[From the Philadelphia (PA) Inquirer, June 4, 1995]

GOING EASY ON CROOKS IN 3-PIECE SUITS

(By Jeff Brown)

True or false: Republicans are the law-and-order people who want to see more crooks go to jail and stay there longer?

True—unless the crook wears a three-piece suit instead of a ski mask. Corporate executives, accountants, securities industry poohbahs—they need special protection against claims they're thieves.

This, in a nutshell, is the point of the Private Securities Litigation Reform Act of 1995, approved, 11 to 4, by the Senate Banking Committee on May 24 and likely to reach the Senate floor this month. It's meant to discourage ''frivolous'' claims. But what about legitimate ones?

Unlike a similar House bill passed in March, the version sponsored by Sen. Alfonse D'Amato (R., N.Y.), the committee chairman, doesn't include a sweeping requirement that the loser in a stock-fraud case pay the winner's legal fees. But a trial judge could implement ''loser pays'' by finding the plaintiff had engaged in ''abusive litigation.''

Loser pays could deter stockholders from filing legitimate lawsuits by making it too risky to challenge rich corporations.

The D'Amato bill has other flaws as well, says Securities and Exchange Commission Chairman Arthur Levitt. ''Willful fraud'' would be made easier by a ''safe harbor'' provision, he says, because executives would be overly protected from lawsuits regarding misleading projections about a company's performance.

Stock frauds usually use bloated financial projections to entice investors. D'Amato would require a new, higher level of proof—essentially, that a company intended to mislead, giving defrauded investors the nearly insurmountable task of establishing a corporate executive's state of mind. An executive could make virtually any projection, then insulate himself against a fraud verdict by adding that things might not turn out that way.

The bill has some good provisions to protect investors joining in a class action from abuse by their own attorneys, and it would ensure that plaintiffs are illegitimate victims and not stooges for ambulance-chasers.

But federal court figures don't support Republican claims there's a flood of frivolous suits. There are only a few hundred class-action securities cases filed a year, while there are more than 14,000 public companies. And, of course, many securities suits are legitimate—just ask the victims in the Crazy Eddie or Lincoln Savings & Loan cases. Class actions are the cheapest way for small investors to fight abuses by well-heeled corporations.

SEC lawyers say most people who commit stock fraud could be charged with criminal

violations that carry prison terms. But they aren't because in criminal cases, prosecutors need proof beyond a reasonable doubt. So most stock-fraud cases, which are tough for jurors to grasp, go to civil court, where only a preponderance of evidence is required.

Still, a crook is a crook, whether he burgled your home or lied to sell you stocks at an inflated price. And the D'Amato bill would relax the penalties for many stock crooks.

It would scrap rules that make each participant in a fraud liable for the entire sum-ordered returned to investors or paid in fines. Under the current ''joint and several'' liability rules if one defendant can't come up with his share, the others have to pay it.

Instead, D'Amato would establish ''proportional liability,'' in which, with few exceptions, each defendant would pay a percentage of the penalty equal to his share of guilt, as determined at trial. Thus, if the defendant who owes 80 percent is bankrupt, the defrauded investors would be unable to recover most of what they are owed, even if another defendant has the money.

This provision was aggressively sought by the accounting profession after some firms were assessed hefty penalties for S&L frauds.

Proportional liability is like letting the getaway driver off with a speeding ticket if he didn't *intend* for his partner to shoot the bank teller. It protects the partially guilty at the expense of the investor who is completely innocent.

Surely, most corporate executives are honest. But since there's little evidence that frivolous lawsuits are a real problem, it looks as if business groups seek ''reform'' *legitimat* lawsuits.

A cynic could guess what goes through their minds when they see a thief in a three-piece suit held to account:

''There, but for the grace of God, go I.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of S. 240. I was an original cosponsor of this bill in this Congress, and in the last Congress.

Mr. President, securities litigation reform is not a household issue. It is not one that many people follow. But the fact is that it is very important for our economy, and very important for job creation in our country.

Very simply, this bill will attempt to put an end to frivolous class action lawsuits that are filed against America's publically traded companies. These are lawsuits that have little and often no bearing. They are filed for the sole purpose of blackmailing the companies. They are not lawsuits; they are legalized blackmail into settling suits rather than going to court. Everyone that has followed the issue at all knows, or who has ever been sued knows, that it is often cheaper to settle up front than it is to go all the way to trial with the cost of lawyers today. Of course, once the suit is settled, the attorneys that brought them keep the money. They keep the larger portion of it. It has become a cottage industry for certain lawyers that has been created over the last 20 years. I think it is time to put an end to it. And that is the purpose of this bill.

The problem is dramatic. Since 1980, there has been a 73-percent increase in the number of civil suits filed in Federal court. It is estimated that class action suits have increased three fold in just the last 5 years.

The cost of these suits is no small matter. At the end of 1993, class action suits were seeking $28 billion in damages.

The impact of these suits is having a detrimental effect on our economy. Many companies are afraid to go public and sell stock. By remaining private, they can avoid these kinds of suits, but they also sacrifice an increase in growth and jobs that can come from going public. This is costing America jobs.

Some have suggested that companies from overseas are afraid to establish businesses in America out of fear that they too will fall victim to these suits. This is costing America jobs as well and economic growth.

Money that would otherwise be spent on new job growth, and on research and development is paid out to lawyers to settle these suits or money is spent fighting them.

Furthermore, excessive costs are passed along to consumers in the form of higher prices. All of this has a ripple affect on our economy. Mr. President, it is making America less competitive and creating fewer jobs at a time in this country's history when we should become competitive, and we should be creating more jobs in order to stay competitive.

In my home State of North Carolina alone, 116 companies have contacted me and asked for help in passing this bill. They are united in their effort to end the abusive lawsuits that are being filed. Together, these companies in one small State alone, in North Carolina, employ 118,000 people. That is why the bill is so important not only to North Carolina but to the Nation as a whole.

Mr. President, let me assure you that nothing in this bill will prevent anyone from filing a legitimate fraud case against any company. Not one sentence in this bill will restrict anyone's rights who has a legitimate complaint.

If it did, I do not think 50 Members of the Senate would have cosponsored the bill.

Also, please do not be fooled by the ads you are seeing or hearing on this bill. They are not paid for by consumers. They are paid for by trial lawyers—wanting to protect their lucrative industry.

Consumers will be helped by this bill. Any consumer that has a job—or wants a job—or wants to keep a job will be helped by this bill. Not one consumer with a legal, legitimate lawsuit will be hurt by this bill.

Mr. President, a point that is not often made is that the consumers and plaintiffs in the class action suits rarely benefit from these lawsuits. You would think that the consumers and plaintiffs are receiving the benefits. But they are not. Study after study shows that lawyers get the vast major portion of any settlement.

We had testimony that the average investor received 6 or 7 cents for every $1 lost in the market because of these suits—and this is before the lawyers are paid. So after the lawyers are paid, there is practically nothing left.

Mr. President, I particularly want to note that an important part of this bill is the reform of proportionate liability rules. This bill requires that those who are responsible for causing a loss pay their fair share. But it does not require them to pay more than their fair share except in certain extenuating circumstances.

This will stop the tactic of going after the deep pockets—like the accountants. The rule is sue everybody and anybody, and then get the rich defendants to do the paying.

Under this bill, if a party to the suit is found to have contributed to a loss but did not do so knowingly, that person pays only the percentage of the loss he or she caused. For example, if this person caused 2 percent of the loss, they pay 2 percent of the liability claim.

Mr. President, I strongly support S. 240. I think we need to act on it now. And I am going to oppose any amendment that I think will weaken this bill. I think it needs to be passed as it is. This bill has already been moderated enough in committee to give it bipartisan support. So I urge the Senate to pass S. 240 as soon as possible.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. MACK). The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, I rise in opposition to S. 240. I should like to make a couple of preliminary observations.

This is not the kind of riveting stuff that keeps everybody in America who is watching on television at the edge of their seats. Much of this discussion is esoteric, technical, and full of legal nuances, but no one should conclude from that preliminary observation that it does not have an enormous impact on millions and millions of Americans. Everyone who has a retirement account in which he or she has invested in securities, millions of small investors, all have a stake in this legislation.

The American securities market is acknowledged by all to be the world's safest and most effectively regulated, and the underpinning for this system has been twofold. No. 1, the powers which the Congress has vested in the Securities and Exchange Commission to regulate and keep the marketplace honest, fair and open to investors is one important aspect, in addition to the adjunctive support provided by State securities administrators in the respective 50 States. But as has been pointed out by my distinguished colleague, the senior Senator from Maryland, the ranking member of the Banking Committee, private causes of action are recognized by security regulators to be an equally important part

in keeping the marketplace free from fraud.

Mr. President, we are not talking about something that is academic, as if there were problems in the past and all of those have been taken care of. The New York Times in an article dated Friday, June 9 of this year makes this observation, and I quote:

> Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

And then later I quote again.

> ''It's a growth industry,'' said William McLucas, Director of the Division of Enforcement of the Securities and Exchange Commission. ''In terms of raw numbers, we have as many cases as we have had since the 1980's, when we were in the heyday of mergers and acquisition activity.''

The North American Association of Securities Administrators estimates that each year there is approximately $40 billion of fraud in the securities marketplace. So millions of investors, people who do not think of themselves as stock barons but have their small retirements invested in the securities market, can be affected by what this Congress does on this legislation.

In my view, Mr. President, the bill pits innocent investors, many of whom are elderly and are dependent upon those investments for their sole source of retirement, on one side and those who are trying to immunize themselves from liability by reason of their own fraud on the other side.

I recognize the need for some changes in our securities litigation system. I do not appear before my colleagues this evening as a defender of the status quo.

I commend the distinguished chairman and the sponsors of this bill because in a number of areas the bill which they have introduced improves the present system, and it does so in these areas without disadvantaging the innocent investors who may have been defrauded. These areas include the prohibition of referral fees to brokers, prohibition on attorney's fees paid from SEC settlements, no bonus payments to class plaintiffs, elimination of conflicts of interest, payment of attorney's fees on a percentage basis, and improved settlement notices.

Mr. President, I think all of us would agree that those are important and positive changes which impact the securities litigation system in America. And if we are not in unanimity, there is virtually a consensus everywhere that these go a long way to correcting abuses in the securities litigation system. But any system must be balanced, and it must be fair so that it does not preclude meritorious suits.

The Trojan horse that brings this legislation to the floor unfurls the ensign of preventing frivolous lawsuits. I share that conclusion, as does the distinguished ranking member, who previously spoke in the Chamber. But the passengers inside this Trojan horse have very little interest in deterring frivolous lawsuits. Their primary objective is to shield themselves, to immunize themselves from liability as a result of their own, in some instances, intentional fraud and, in other instances, reckless misconduct.

It is for that reason my colleague and friend, the junior Senator from Alabama, Senator SHELBY, and I introduced our own bill earlier this year, S. 667, as an alternative to the legislation that is before us today. Our bill is a carefully tailored, fair approach that would prevent frivolous actions from proceeding while at the same time protecting meritorious actions.

Let me make a comment about frivolous lawsuits. I think there is a legitimate problem there, but the way in which we deal with frivolous lawsuits is to impose sanctions on attorneys who file frivolous lawsuits and make them be financially responsible for their misconduct in filing those frivolous lawsuits. I favor enhancements to rule 11 under the Federal Rules of Civil Procedure, and earlier this year I was privileged to offer the Frivolous Lawsuit Prevention Act which is designed to provide an additional power to Federal judges once a determination is made that a frivolous lawsuit or claim is made to impose sanctions, and that means financial responsibility so that the defendant who is required to defend that frivolous lawsuit can make his or her or its expenses whole again. I support that.

I submit to my colleagues that this legislation which we have before us this evening is far more than an attempt to curb frivolous lawsuits because if that were its purpose, I would be in the vanguard of urging my colleagues to adopt this legislation.

S. 667, which has been endorsed by numerous groups including the North American Association of Securities Regulators, the U.S. Conference of Mayors, and the Government Finance Officers Association contains reform measures that will improve the system for all Americans.

S. 667 also contains many provisions to eliminate abusive suits and to protect all parties to litigation including a novel proposal for an early evaluation procedure designed to weed out those cases that are clearly frivolous cases and, as I said previously, to impose sanctions when necessary. It provides for a rational, proportionate liability system.

Mr. President, it protects the defrauded investors fully so that when there is an uncollectible judgment against the primary wrongdoer, they can fully recover the amounts of their losses. It provides a reasonable regulatory safe harbor provision, as my distinguished friend and colleague, the Senator from Maryland, pointed out earlier this evening. And importantly, S. 667 also contains other measures to preserve meritorious suits.

It restores aiding and abetting liability eliminated last year by the Supreme Court in the Central Bank of Denver case by a 5 to 4 decision. The effect of that case was to wipe out liability of aiders and abetters and to immunize them from lawsuits based upon their own reckless misconduct that has been responsible for losses incurred by innocent investors.

S. 667 would also extend the statute of limitations for security fraud action in a manner suggested by the SEC and virtually every other unbiased witness who appeared before the Banking Committee. It codifies the reckless standard of liability with current law with the Sunstrand case, which Senator SARBANES referred to, and it restricts, Mr. President, secret settlements, protective orders, and the sealing of cases so that the public really knows what happens in these cases.

In my judgment, the bill that Senator SHELBY and I sponsored is reasonable, targeted, and balanced. It solved those problems that have been identified while preserving the system that has made our capital markets the envy of the world as the strongest and most safe. By contrast, Mr. President, the bill before us today makes radical changes in our securities laws, laws that have worked exceedingly well over the past six decades.

Let me discuss some of the arguments made for these radical changes. The primary premise of those who support S. 240 deals with an allegation that there has been an explosion of class action security lawsuits and that we must undertake these radical reforms in order to prevent this abuse.

The Congressional Research Service, at my request, prepared a report that was issued on May 16 of this year and entitled ''Securities Litigation Reform: Have frivolous shareholder suits exploded?'' Let me read to you some of the findings of the CRS study. Again, Mr. President, I quote:

> While some current legislation . . . and the outcry of various corporate executives suggest that the volume of warrantless securities litigation has exploded to crisis proportions, evidence of this ''explosion'' is far from definitive. We know that in the 1990's, the number of annual Federal class action, securities cases filed has returned to the proximate level of such filings during the early and mid-1970's.

And I continue with the quote.

> By the standards of the docket sizes faced by Federal courts, the upper limits of these potentially ''abusive'' securities suits remain exceptionally small; the filings have never exceeded 315 yearly in 20 years.

''* * * 315 cases a year in the past 20 years.'' Let me reiterate that point again. ''* * * 315 cases in 20 years.''

In fact, when multiple filings are consolidated, because some companies face more than one lawsuit as a result of the allegation of securities fraud, approximately 120 to 150 companies are sued each year.

Mr. President, that is out of some 14,000 registered companies —14,000 registered companies. And approximately 120 to 150 companies get sued each year.

The CRS goes on to say:

There are observers who argue that shareholder suits legally and unfairly exploit the high stock price volatility often observed among high tech firms.

However, another analysis of these high tech firms indicates that their unusually short, and unpredictable product cycles may, in fact, predispose their management toward a greater tendency to suppress proper disclosure or to provide false ones.

On balance, the evidence does not appear to be compelling enough for one to definitively assert that warrantless class action suits have exploded.

Mr. President, let us take an even closer look at the underlying premise upon which opponents would rewrite, in my view, in a radical way, our highly successful 60-year-old securities law. First, we are told there is an explosion of securities fraud cases. The CRS report demonstrates that this simply is not the case.

Let me invite my colleagues' attention to a chart that I have had prepared. These are securities class action lawsuits filed from 1974 to 1993. In 1974, over here, perhaps 290 cases; 20 years later, in 1993, approximately 290 cases. So in more than 20 years, when the population of America has geometrically increased, when the amount of general civil litigation—general civil litigation, not securities class actions—has grown dramatically, the number of class actions brought on behalf of securities plaintiffs has remained relatively constant, somewhere at the highest point, 315, and currently 290 cases.

Mrs. BOXER. Will the Senator yield for a question on that point?

Mr. BRYAN. I will be pleased to yield.

Mrs. BOXER. I am astounded by this chart. The proponents of this bill have been saying, since we started in the committee, that there has been an explosion in class action lawsuits filed—an explosion. We are going to hear tonight from all quarters. What the Senator is showing us tonight is really extraordinary. There has been no explosion.

Mr. BRYAN. My colleague is correct. Over the past 20 years, the numbers have been relatively constant. This represents one-tenth of 1 percent of the 235,000 Federal suits filed in 1994—one-tenth of 1 percent. There were 235,000 cases filed in the Federal court system in America last year, and one-tenth of 1 percent involved class action securities lawsuits. So my distinguished colleague is correct in her observation.

Mrs. BOXER. May I just say to my friend, thank you for this very straightforward chart because we are going to hear it all over the place in this U.S. Senate. And I am going to refer back to your chart, I say to my friend. Thank you very much for setting the record straight. There is no explosion of these class action lawsuits. Those are the facts. And I thank my friend for presenting it in such a clear fashion.

Mr. BRYAN. And I thank my colleague for posing the question. Securities class action suits have actually declined sharply in the last 20 years relative to both the number and the proceeds—the number and the proceeds—of initial and secondary public offerings, stock market trading volume, and every other measure of economic activity. To claim that suits by victims of financial swindles have constituted an explosion in civil litigation is patently false.

Now, we are also told, Mr. President, that so many companies are being sued that they are being distracted from other businesses. This is simply not true. According to figures from Securities Class Action Alert, only about 140 public companies were sued in securities fraud actions last year out of some 14,000 public companies reporting to the SEC. The only suits that have been going up are business suits against each other; that is, companies suing companies—companies suing companies, not suits by individuals against businesses. So if the companies who are suing each other are so troubled by litigation, why do they not just stop suing each other?

Mr. President, I think I have the answer. It is because they do not want to prevent themselves from being able to sue. They just want to prevent private individuals from being able to sue them. It is as simple as that. These companies would also have us believe that because of these suits, companies are fearful of going public, that they cannot raise the capital in the securities market.

Mr. President, there is no credible evidence that I am aware of that supports this astounding proposition. The existence of these suits has had no discernible impact on capital formation of business. The Dow Jones Industrial Average has just surpassed 4,000—an all-time high. I would invite my colleagues' attention to this chart. In terms of the initial public offerings, over the period of time that we have referenced here, they have gone up by approximately 9,000 percent in the last 20 years.

In the last 20 years, initial public offerings have risen by 9,000 percent—now, that is the number, Mr. President, of initial public offerings—while the capital raised, that is the amount raised by these initial public offerings, has increased by 58,000 percent. So both in terms of numbers and in terms of the dollars raised, they have gone up 9,000 and 58,000 percent, respectively. Let me say, I am glad to hear that, because that is important that we have the necessary capital formation to finance new enterprises. That is the essence of the free enterprise system.

The contention is invariably made that every time a stock drops to any degree, regardless of the reason, that there is a great rush to the courthouse and lawsuits are filed based solely upon the fact that the stock has declined in value. I want to address that assertion.

In examining this contention, there are three studies that have been called to my attention that reject that thesis.

One study by Prof. Baruch Lev of the University of California at Berkeley, involved public companies whose share price dropped by more than 20 percent in the 5 days following a disappointing earnings report.

Although there were 589 such cases where the stock dropped at least 20 percent from 1988 through 1990, class action suits were filed against only 20 of those firms, approximately 3.4 percent.

Moreover, Professor Lev compared those 20 firms with similar firms that were not sued and found that the firms that faced litigation tended to put out rosy projections, or forward-looking statements, just before releasing the bad earnings report, the issue that my distinguished colleague from Maryland so ably addressed that operates under the rubric of safe harbor, of which much more will be said during the course of this debate by him and, I am sure, my other colleagues.

By contrast, the firms that were not sued tended to publish more sober statements warning investors in advance that earnings would be lower than expected.

There was another study conducted by the firm of Francis, Philbrick, Schipper from the University of Chicago which searched for lawsuits against companies sustaining 20 percent declines in earnings and sales.

The author reported that, out of 51 such at-risk firms during 1988 to 1992, only 1 of the 51 was the target of a shareholder suit related to an earnings announcement.

And still a third such study performed by Princeton Venture Research shows that between 1986 and 1992, less than 3 percent of the companies whose stock dropped by more than 10 percent a day were sued.

So the claim that companies are bombarded with suits whenever their stock goes down is simply not supported by the studies I have seen. None of these studies, even using a 20-percent stock drop, found even 3.5 percent of the companies in this classification that were sued.

Even the Senate Banking Committee staff report published last year, under the able direction and support of Senator DODD and his staff, concluded, and I quote:

There is also no clear evidence of the extent to which price declines drive securities class actions to be filed.

But the proponents of S. 240 tell us, most of these suits are filed just so the plaintiffs can get a settlement. Again, the documentation does not support this conclusion.

The Senate staff report, to which I previously referred, examined sentiments of Federal judges regarding meritless litigation and found, and this again is directly from the staff report:

Seventy-five percent of the judges surveyed . . . thought that frivolous litigation was a small problem or no problem at all.

The SEC told the subcommittee that surveys had shown that ''most judges believed that frivolous litigation was not a major problem and could be dealt with through prompt dismissals.'' And I believe the enhanced provisions of the Federal Code of Civil Procedures, that deals with frivolous lawsuits, is an absolutely appropriate and responsible way to deal with errant and irresponsible lawyers who file clearly frivolous lawsuits.

I believe the strengthening of those provisions under the law, targeted and tailored, is the most effective way of curtailing lawyer abuse.

The evidence clearly shows we ought not to throw the baby out with the bathwater.

S. 240 goes well beyond what is needed to deal with the abuses that exist in today's system. Every Member has cause to be concerned, because once this bill is passed and the next fraud comes along, whether it be a derivative disaster in your State, another Keating, a Milken or a Boesky, your constituents will want to know why you supported legislation that took their rights away to recover for their losses as a result of such fraudulent activity.

Unfortunately, there are provisions in S. 240 that would effectively gut private actions under the securities laws, eliminate deterrence and hurt average Americans who depend on the system to protect their savings, their investments, and their retirements. These provisions would give free rein to the next Charles Keating and could cause incalculable damage to States and localities that suffer the same fate that Orange County has recently faced.

Among the most troublesome provisions in S. 240 is the safe harbor exemption from fraud liability for forward-looking statements that essentially allows executives to say almost anything and be immunized from liability as a result of such misstatements.

Senator SARBANES has indicated he will be offering an amendment to correct this problem, and I intend to join him as a cosponsor of that amendment. It is something that concerns the Federal and State regulators; the SEC has written, the National Association of Securities Administrators has written, government finance officers, and consumer groups all have written the committee expressing their concern.

Corporate predictions, called forward-looking statements, inherently are prone to fraud as they are an easy way to make exaggerated claims of favorable developments to attract investors to part with their cash.

In fact, the Federal securities laws were passed in large part because of the speculative stock projections that led to the stock market crash in 1929.

Recognizing the inherent potential for exaggerated claims, forward-looking statements by public companies were not even permitted until 1979.

I think that bears repeating. Until 1979, no forward-looking statements were made as a result of the experience that we had in the 1920's and the predilection of those seeking to embellish their own prospects for earnings to attract investors to invest as a result of these extravagant and flamboyant claims.

Since 1979, the SEC, recognizing some forward-looking statements may be important, has allowed limited predictions and protected them from liability if they are made in good faith and with a reasonable basis. Nevertheless, false predictions continue to be a favored tool of con artists, promoters and the illegal inside traders to pump up the price of their stock in order to profit at the expense of innocent investors.

S. 240 sponsors have not explained to my satisfaction why corporate statements that are made in bad faith with no reasonable basis or even with reckless disregard for their falsity need to be immunized from liability when fraud has occurred. I hope during the course of this debate we might have such an explanation. We are talking about statements made in bad faith with no reasonable basis and with reckless disregard for their falsity. I know of no public policy, Mr. President, that suggests that kind of conduct ought to be shielded from liability. Unhappily, S. 240 in its present form would do just that.

Moreover, the SEC is in the middle of a rulemaking process to study forward-looking statements and has asked Congress to allow it to complete its process. The original S. 240, as my colleague from Maryland has pointed out, would have done so. It is a technical area, highly complex and, frankly, it is a subject best left to the administrative agency in a rulemaking process rather than in a broad legislative enactment.

However, in committee, a virtual unlimited exemption or safe harbor—my colleague has aptly referred to this, not as a safe harbor but a pirate's cove, and I think he makes a compelling argument. Any statement either made orally or in writing that projects estimates or describes future events, so long as it is called a forward-looking statement, is immunized as a result of the legislative draft that is before us, even if that statement is made recklessly.

This is a gaping loophole through which wrongdoers or victims of fraud would be denied recovery. The effects of these changes, I think, are difficult to forecast, but I think they would have a devastating impact on the market.

I remind my colleagues that it is already extremely difficult to win a securities case. Under the 1934 Securities Act, a plaintiff must prove fraud or reckless behavior. Recklessness is defined as ''highly unreasonable conduct that involves not merely simple or even gross negligence, but an extreme departure from standards of ordinary care.''

So I think it is important for our colleagues to understand that no one under the 1934 act is liable as a result of his or her simple negligence, ordinary negligence, or even gross negligence. It requires a higher standard of misconduct—namely, reckless conduct. That seems tough enough to me. Anyone who makes a projection and meets this standard ought to pay his or her victims.

A second troublesome provision in S. 240 is the severe limits on joint and several liability, even when the primary wrongdoer is insolvent. America's legal system for fraud traditionally has been based on joint and several liability. Under this standard, if one wrongdoer is found liable but has no assets, the victim can be reimbursed fully by the other wrongdoers without whose assistance the fraud could not have succeeded. The underlying premise for this legal rationale is in that scale of justice—in the balance. Who should bear the burden of the loss? The innocent investor, who is totally without fault—no fault whatsoever—or a defendant whose conduct is at least reckless and may be subject to intentional fraud? Who ought to bear the burden? The philosophy that undergirds the American system of jurisprudence for centuries has said that under those cases, the scales of justice weigh in favor of the innocent victim, the one who had no responsibility, did not in any way contribute to the misdeed which caused the loss.

The rule has enabled swindle victims to recover full damages from accountants, brokers, bankers and lawyers who participate in securities scams when the primary wrongdoer has no assets left, has fled the jurisdiction, or may be in jail. The original S. 240 sharply limited this rule, immunizing reckless wrongdoers from joint and several liability.

If that had been the law, most investors would not have recovered their life savings in the Charles Keating/Lincoln Savings & Loan debacle. Although Keating had become bankrupt, the victims recovered their damages from the accountants, bankers, and lawyers who assisted Mr. Keating. Of the $240 million in judgments imposed in favor of class action plaintiffs, nearly 50 percent—or $100 million of those recoveries—were against accountants, bankers and lawyers—not the primary wrongdoers, but individuals who conducted and assisted Mr. Keating in perpetrating the fraud.

Despite extensive testimony, particularly by the SEC, that restricting joint and several liability will reduce recoveries for defrauded victims and encourage more fraud, the bill, as reported, restricts joint and several liability even further.

In the all-too-often cases in which a knowing violator is bankrupt, in jail, has fled, the liability of reckless violators to the uncollectible share would be capped. That is, there would be a limitation. Those who are proportionately

liable under the system that is incorporated in this print of S. 240 would be subject only to their proportionate share, even though the innocent victim is unable to recover his or her full amount.

There is one exception, as was pointed out, and that would be with respect to victims whose net worth is under $200,000 and have recoverable damages of more than 10 percent of their net worth.

May I suggest, Mr. President, that is a very narrow window of opportunity. People who own their own homes, automobiles, and have the most modest of assets frequently might have a net worth of $200,000. So we are not talking about the goliaths of business people who are extraordinary affluent; we are talking about tens of millions of Americans who would be excluded from recovery under this provision. That cap on joint and several liability means it will be virtually impossible for a great many of those victims to recover their losses.

The bill also does several other very damaging things. The bill would also turn over control of class actions to the wealthiest investors, even though their interests may not be as extensive as the small investors' that the class action device was designed to protect. It relegates small investors to a second-class status and makes the securities markets strictly a playgrounds for the big boys—the wealthy.

In committee, a new provision was added that requires courts to designate the ''most adequate plaintiff''—words of art—in a private class action. This ''most adequate plaintiff''—defined as the plaintiff with the largest financial interest in the case—is given the power to select lead counsel, control the case, and even to make settlement agreements for any amount or even dismissing the case.

This change to S. 240 makes plain the real motives behind the bill and makes hollow any protections that this is to protect meritorious fraud actions. This ''most affluent plaintiff'' requirement would simply wipe out average investors who are defrauded. The wealthiest investors may have close ties to big corporate defendants who can afford to accept less than the full recoveries. But it gives them complete control over class actions at the expense of average investors.

Aside from raising a specter of collusive intervention by large investors, and simply dismiss cases or enter into sweetheart settlements, the substitute virtually precludes small investors from being able to obtain attorneys willing to invest their time on cases over which they have no control and for which they may not be paid.

This also directly contradicts the reason why class actions were devised in the first instance, and that is to give average investors, who cannot afford to fight big corporations by their own means, the ability to band together and collectively seek a remedy for their relief. Instead, this provision gives preference to wealthy investors who can afford to seek redress for their losses on their own.

S. 240 also eliminates a principal investor protection provision that was originally part of S. 240, as the distinguished ranking member of the committee, the senior Senator from Maryland, points out. That deals with the statute of limitations issue. Currently, the statute of limitations is 1 year from the point of the discovery of the fraud on the part of the victim, but in no event for more than 3 years after the fraud. The SEC, the North American Association of Securities Administrators—every regulator that I am aware of, who offered testimony or correspondence, indicated that this period is simply too short. It provides insufficient time for meritorious, legitimate plaintiffs to bring their action. The original S. 240 extended the period to 2 years after the violation was, or should have been, discovered by the injured plaintiff, not more than 5 years after the fraud itself.

As the Senator from Maryland pointed out, we dealt with this issue back in 1991 under the Lampf case. That case will have particular relevance to a number of my colleagues, because immediately after the Lampf case, which gave a retroactive interpretation to the law, surprising most securities litigators by concluding that there was only a one to three-year statute of limitations, immediately thereafter, Charles Keating filed a motion to dismiss.

A number of my colleagues joined me in supporting an amendment to the legislation that restored the 2–5 year provision retroactively, so that those cases for dismissal would not find themselves dismissed simply because the statute of limitation provision came as a surprise.

What this provision seeks to do with respect to the prospective cases is the same 2–5 year. As the distinguished Senator from Maryland pointed out, when this proposal came to the floor to correct the retroactive abridgement or shortening of the statute of limitation from 2–5 to 1–3, there was no objection. Everyone agreed.

The only issue—and it was a legitimate question—should we not take a broader look at security litigation reform? There was no objection to the premise you need a longer period of time.

I must say that the SEC has been very clear, and their testimony has been compelling, that even with all of the resources that the SEC can command and marshal, it takes an average of 2.25 years to complete an investigation of an alleged securities fraud. That is the SEC, with immense resources.

We, by failing to provide for the statute of limitations correction which was originally part of this bill and in rejecting the advice of the SEC, the North American Association of Security Administrators, and virtually everyone that testified from a regulatory public policy point of view, we give comfort to those who perpetrate fraud on innocent investors.

I will offer an amendment that deals with that issue either later this evening or tomorrow, as our time permits.

I might just add that Senator DODD, one of the prime sponsors, indicated he, too, believes S. 240 needs to be amended to reflect that statute of limitations issues we just talked about. Obviously we will welcome his support.

S. 240 also fails to restore the aiding and abetting liability for private suits and eliminates the ability of the SEC to sue aiders and abettors for reckless behavior as opposed to fraudulent conduct.

Members will recall, Mr. President, I cited in the Keating case that recovery of $100 million was from aiders and abettors. If S. 240, as this legislation is being processed today, was the law back in 1991, that $100 million could not have been recovered. It could not have been recovered because the court, just last year, in another case that was a surprise to those who follow the securities industry issues, held that a ruling that had been in effect for 25 years, namely, that aiders and abettors were covered under the provisions of the securities law, that aiders and abettors were, in fact, not covered, and under a 5–4 Supreme Court decision, Central Bank of Denver, such liability for aiders and abettors is eliminated.

We are not talking about proportionately. We are not talking about joint and several liability. We are talking about aiders and abettors. They have a free ride. They are home free. All you need to do is get yourself in the aider and abettor category and you can have a field day. It is ''Katie bar the door,'' do whatever you wish, and insofar as a private cause of action, you are precluded from recovery.

Mr. President, no matter how anyone feels on securities litigation reform, can it possibly be in the best interest of America to insulate from liability a category of persons whose conduct has inflicted upon innocent investors enormous financial loss, maybe even wiping out everything that a retired person might have in his or her investment?

I indicated that the Supreme Court also imposed a limitation even on the SEC—even on the SEC. They can only move against aiders and abettors under a much stricter standard. The defendant must knowingly—and that is the standard which even the SEC is forced to meet now as a consequence of the decision. We will be offering an amendment on this, Mr. President.

I note that Senator DODD, who has worked for many, many years—and all who work with him on the committee and consider ourselves his friend and close colleague acknowledge Senator DODD's fine work. Last year, in an April 29, 1994, ''Dear Colleague'' letter, Senator DODD made this observation:

Allowing private actions against aiders and abettors is an indispensable part of our securities enforcement system, and I believe Congress must consider legislation to reinstate liability in this area.

Senator DODD was absolutely right on the mark in 1994. The reason is even more compelling in 1995, based upon some of the information that I shared with Members earlier from those on the SEC that tell us about the amount of fraudulent activity. In this particular instance we talked of insider trading.

Senator DODD reiterates:

Lawyers, accountants and other professionals should not get off the hook, in my view, when they assist their clients in committing fraud. . . . The Supreme Court has laid down a gauntlet for Congress. . . . In my view, we need to respond to the Supreme Court's decisions promptly and I emphasize promptly.

As Senator DODD so often does, he speaks with precision, eloquence, and cogency. He is right on the mark, Mr. President. We need to do that in the course of processing any securities legislation.

Mr. President, this bill, also as reported by the Banking Committee, deals with the Securities Act of 1933—that is another provision—not the 1934 act. The 1933 act targets fraud in initial offerings of securities to the public. Initial public offerings historically have been rife with fraud by huckster promoters peddling new securities.

The 1993 act holds such wrongdoers strictly liable. The bill as reported, however, makes it nearly impossible to hold crooks who sell phony securities strictly liable for their fraud.

S. 240 also retains some highly burdensome pleading requirements—burdens that must be met by fraud victims, plaintiffs in these class actions. By ''pleadings,'' we are talking about an illegal document that commences a lawsuit in which a plaintiff—in this instance a victim of fraud—states forth his cause of action. Those pleading requirements under S. 240 are exceedingly burdensome.

Under current law, fraud plaintiffs are not required to state specific facts establishing the defendant's intent. That is a subjective state of mind. It seems pretty reasonable. It is a pretty onerous burden to be able to allege with particularity what the subjective thought process would be of a defendant.

The reason for that is because such facts are normally only uncovered later during a deposition or discovery process when there is a chance to examine the defendant or defendants under oath.

One of the ways the original S. 240 tried to block cases was through impossible pleading standards requiring plaintiffs to state specific acts demonstrating the state of mind of each defendant. Witness after witness indicated that this would prevent, for all practical purposes, many fraud victims from recovering their money.

The bill as reported merely replaces the impossible standard with the harshest standard currently used. In my view, and in the view of those who regulate the securities market, it is not much of an improvement over the original language and would prevent legitimate plaintiffs from even asserting a cause of action.

S. 240 also contains an unfair and inflexible limit on victims for recovery. The bill contains a formula designed to limit the amount wrongdoers have to pay their victims. Basically, if the company stock goes up during a 3-month period following public exposure of the fraud, for whatever reason, the victims' recovery is reduced accordingly.

Finally, Mr. President, S. 240 would shield evidence of fraud from the public. S. 240 purports to attempt to eliminate secret settlements. The bill fails to ban the almost universal secrecy orders that are required by defendants as a condition of producing documents during discovery.

These orders remain in effect throughout litigation and generally require that, once a case is over, documents be destroyed or returned.

Such secrecy orders block significant corporate wrongdoing from public scrutiny.

Moreover, these orders allow defendants to proclaim their innocence after settlement without fear of contradiction—and permit them to claim the cases are frivolous when they visit with Members of Congress. And because the documents upon which the case was predicated are sealed, there is no effective rebuttal.

I would note one final irony of S. 240. The bill violates one of the primary tenets of Republican theory—this is, returning government functions to the private sector.

For 60 years, private attorneys general have supplemented the antifraud efforts of Federal regulators at the SEC and at the Justice Department.

Such an enforcement scheme is entirely consistent with the Republican contract.

But as CBO noted in its cost estimate on S. 240, if private rights of action are curtailed, substantial government involvement, including increased SEC efforts, will be needed to assure that the markets remain fair.

Morever, as CBO stated in its June 19 letter to the committee, the SEC will have to double or triple its resources allocated to this function—and the cost to the American taxpayer could be up to $250 million over the next 5 years.

That is to say, by reason of the restrictions placed on private causes of action, if one has a view of regulating the marketplace effectively the burden essentially now falls almost exclusively to the SEC, and they would have to up staff and the cost as estimated by CBO is $250 million; $250 million paid by the American taxpayer.

I invite my colleagues' attention to pages 30–32 of the committee report for CBO's estimate.

This confirms the view of the last Republican Chairman of the SEC, Richard Breeden, who testified that the elimination of private actions would require the Commission to hire 800–900 more lawyers to police the markets.

Even if Congress should choose to appropriate the added money—which I seriously doubt—the system will not be as effective.

I hope each Member of this body will remember that when the next financial debacle hits, average Americans, many of whom may be people who live in your district, will be unable to runner their losses.

Last week, my constituents who were victims of the Keating scandal visited Washington, along with other Keating victims from other States.

One way Jeri Mellon from Henderson, NV, a community just 10 miles out of Las Vegas. She is head of the Lincoln bondholders committee. She and Joy Delfosse came to see me.

Every Member of Congress should be standing up for the Joy Delfosses and Jeri Mellons in their States, not the Charles Keatings.

These are retirees whose life savings would have been wiped out if they had not been able to recover as a result of the Keating fraud. And that ability to recover would have been lost if aiders and abettors had not been liable. And that ability to recover may have been lost if the statute of limitations had not been extended. And that recovery may have been lost as a result of the proportionate liability proposal contained in this legislation.

Mrs. BOXER. Will the Senator yield for a question?

Mr. BRYAN. I will be pleased to do so.

Mrs. BOXER. The Senator is right to bring up real people in this conversation. Because oftentimes we get into the legalese and we forget what we are doing here. So I appreciate the fact that the Senator from Nevada brings up the people that he met. I was with him at that occasion. We met people from Florida. We met people from Arizona. We met people from Nevada and California.

I want to ask the Senator a question, because I think anyone watching this debate ought to listen to the response of the Senator. My friend from Nevada who is addressing this Chamber is a learned attorney. He has great experience in seeking justice for people.

Is it the Senator's opinion that the people who were bilked by Charles Keating would have recovered as much as they have recovered, which as I understand it is between 40 percent and 60 percent of their losses, if S. 240 had been the law of the land?

Mr. BRYAN. The answer to the question of the Senator is unequivocally clear. They would have been unable to recover as much as they did. I would simply point out to my distinguished colleague from California, these are innocent people. These are not people who in any way participated in any scam. They are not lawyers. They are ordinary folks whose retirement was on the line. These were retirees.

It is interesting. As I know the distinguished Senator knows, they went to what they describe kind of as a neighborhood bank, Lincoln Savings and Loan. They knew everybody and they would come in and say, ''How are you Suzy?'' And, ''How are you John?'' And, ''How is the golf game and how are you enjoying retirement?''

And they would say, ''Look, what is this stock offering you have, American Continental Corp.?''

And they were told, ''You know, you would be crazy not to put money in that, absolutely crazy. There is a much larger return than you would get just if you put this in a regular savings account in the bank.''

These are the people, I tell my distinguished colleague from California, real Americans from every State of all political persuasions, of all political philosophies—real people, and the impact upon them is what this debate is all about this evening.

Mrs. BOXER. I have one last question for my friend. As we saw these people tell their stories, it was very moving. They are older. They were targeted by Charles Keating. And what they told us is—and this is the question for my friend—they went to file their suits, because they were clearly led to believe that their investments were protected, and the salespeople for Charles Keating were told to lead them down this primrose path. They called them the meek and the ignorant. They sought out ''the meek, the weak and the ignorant.'' That is a quote from Charles Keating's brochures to their salesmen.

We know that Charles Keating put his whole family on the payroll and drained all this money that he stole. And is it not true, I say to my friend, that he went bankrupt?

Mr. BRYAN. He went bankrupt.

Mrs. BOXER. I say to my friend, he could not be touched by these people because he had a lot of lawyers who protected him. And he went bankrupt.

Is it not true that these good, decent senior citizens had to go to the aiders and abettors?

Mr. BRYAN. That is precisely the case.

As the distinguished California Senator knows, having read the provisions of the print before us, the thing that is particularly alarming is that there are several provisions in this law that is being proposed in its current form, as to the pleading standard, safe harbor, the ability to stay or to prevent discovery—that is ascertaining what the facts are—so long as there is a motion to dismiss; all of those were tactics that were used by Mr. Keating and his lawyers. All of those.

If the law in 1991 was the same as it will be if this is passed, together with the Supreme Court decisions that S. 240 fails to correct, those people might never have gotten into the courthouse door.

Mrs. BOXER. Let me thank my friend again for bringing this down to what happens to people when we act here in this body, and to say to my friend that we ought to make any bill pass the Keating test.

We ought to look at any bill when we are done amending it. I hope we amend this bill and make it better, and put it to the Keating test. Would those good people, those innocent senior citizens, be able to recover when we are ''done with reforming,'' I put in quotes, the securities law? Yes. We should go after those frivolous lawsuits. We all want to do that. But there are an awful lot of good companies out there that need to have the frivolous lawsuit aspect of this bill looked at. But, my goodness, let us not forget the real people, the retirees, the people who are the targets. Let us not forget them because it reminds me of the S&L scandal. We made one mistake once. I do not want to see us make another one.

I thank my friend for yielding.

Mr. BRYAN. Mr. President, I thank my distinguished colleague from California. I know some of my colleagues have waited for a while. I will finish, and yield the floor in a couple of minutes.

The Senator from California speaks with such clarity and conviction. She is absolutely right to remind us that a little more than a decade ago a big mistake was made with respect to the savings and loan industry. We spent billions and billions of dollars as a result. If we do not correct this legislation, as my distinguished colleague from Maryland, the distinguished colleague from California, and others will point out, we are opening the door to every charlatan and con artist in America to prey on innocent investors with impunity, and there almost a sense of deja vu. It may not happen tomorrow. But it will happen, and the consequences will be frightening. I do not think we want to make that mistake. America's securities markets have served as the world's finest. The Lincoln Savings & Loan in Orange County could be in my State. It could be in your State. I do not want to have to explain to the good citizens of my State why I allowed this happen, and why my failure to take action precluded them from being recovered as a result of frauds perpetrated upon them. Each and every one of us share that concern.

I have a number of letters from State and local officials. I am not going to belabor my colleagues this evening with all of those. But let me point out as this issue has been framed that it is the lawyers. Frankly, the lawyers do bear some responsibility here.

We talked about rule 11. And I am in favor of banging the lawyers that file frivolous lawsuits over the head and hit them in the pocketbook. Count me at the head of the line for them. But under the guise of getting the lawyers, unpopular since Shakespeare's time. ''Kill the lawyers first''—every student of Shakespeare recalls that quote. Let us try to give here a more objective view.

You have people such as the Association of Governing Boards of Universities and Colleges who have expressed their concern and support the kinds of amendments that we are going to be offering, and oppose the legislation in its current form; the Association of Jesuit Colleges and Universities; the Council of Independent Colleges; the Government Finance Officers Association. These are not closet groups of trial lawyers. The Association of Clerks and Recorders; Election Officials and Treasurers; the Municipal Treasurers Association of the United States and Canada; the National Association of College and University Business Officers; the National Association of County Treasurers and Finance Officers; the National Association of State Universities and Land Grant Colleges; the North American Security Administrators.

Mr. President, I do not believe that one can make the case that these are simply closet advocates for trial lawyers, who I understand are the most disdained group of professionals in America. I understand that. I am not unmindful of that.

But we ought not with the antipathy that we feel toward them for whatever reason wipe out the right of innocent investors to sue. And the bill before us in its current print will do precisely that unless we accept the amendments that the Senator from Maryland, the Senator from California, and I believe the Senator from Florida as well maybe have.

I thank my colleagues for yielding.

Ms. MOSELEY-BRAUN. Mr. President, I would like to speak on the bill.

Mr. President, the United States has the largest and the best capital markets in the world. In no small part that is because markets in the United States are seen as open and fair. And it is one important reason over 50 million Americans are able to participate in our securities markets. Every investor can be confident that our markets are honest, and it is very clear that private securities litigation has played an important role in keeping them honest.

At the same time, there is real need for reform. One study conducted in the 1980's that was cited in the Banking Committee's report on S. 240 found that every single American corporation that suffered a market loss of $20 million or more in its capitalization had been sued. In other words, every corporation whose stock at one time declined in value by $20 million or more was sued for securities fraud during the period covered by the study.

Another study included in the committee report stated that one out of every six companies less than 10 years old that received venture capital had been sued at least once and that such lawsuits consumed an average of over 1,000 hours of time of the management of these companies and an average of $692,000 in legal fees.

What these statistics demonstrate is that either our capital markets are literally overrun with fraud or that there are at least some unsupportable lawsuits being filed. The clear consensus of the Banking Committee was that the evidence did not and does not support the conclusion that our markets are suffering an epidemic of fraud. Rather, the committee's conclusion was very clear that there are abusive security lawsuits being filed, that these suits result in significant adverse consequences for our capital markets and for our economy generally and that, therefore, the reform is necessary. The fact is that securities fraud litigation can be very lucrative, even in cases where there is no fraud. Some would say particularly in cases where there is no fraud.

The Supreme Court made that point very clear in the case of Blue Chip Stamps versus Manor Drug Store. The Court in dictum stated that in securities fraud cases "even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of proportion to its prospect of success * * *."

The Court's opinion was, of course, stated in the driest possible language. In the language of my hometown of Chicago what the Court was really saying was in this area of the law plaintiffs and lawyers who are willing to game the system have all the clout. These few people, and they are a few people, know that they have the corporations and other ancillary parties over a barrel, and they are taking advantage of that fact. They win settlements in all too many cases because of that leverage rather than because of the merits of the case.

What is more, Mr. President, under current law, small investors in a class action case do not really control the case, their lawyers do. One plaintiff lawyer demonstrated the temptation that a few lawyers have succumbed to all too clearly. He said:

> I have the greatest practice of law in the world; I have no clients.

The opportunity for coercive settlements is not the only problem in this area. The Supreme Court made it clear again in the Blue Chip case that "the very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit."

The reason for that is not just the cost of defending against litigation, it is the cost and disruption that flow from the company's attempts to respond to plaintiff's request for discovery, and discovery is not a minor matter. The committee report again stated:

> According to the general counsel of an investment bank, "discovery costs account for roughly 80 percent of the total litigation costs in security fraud cases."

Companies have had to produce over 1,500 boxes of documents and to spend well over $1 million just to comply with the costs of fact-finding, of discovery. It is not just a matter of documents. The time the key employees of the company may have to spend responding to requests for information may keep them and, often does keep them, from tending to the business of the company and, therefore, that also works to coerce settlements.

Some might argue that this is a technical legal issue and one that is not important to the general American public. However, I would suggest that just the opposite is true. Every American, whether he or she invests in our capital markets or not, has an interest in seeing to it that reform is enacted.

The Director of Enforcement of the Securities and Exchange Commission made that point very well. Testifying before the Senate Banking Committee in the last Congress, he stated that:

> There is a strong public interest in eliminating frivolous cases because, to the extent that baseless claims are settled solely to avoid the costs of litigation, the system imposes what may be viewed as a tax on capital formation.

Chairman Arthur Levitt of the SEC reinforced the point in his testimony before the Banking Committee. He stated that:

> There is no denying that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.

Mr. President, these excesses and the tax they impose on our capital markets and on our economic growth are particularly onerous because they do not even achieve what they are ostensibly designed to achieve—the protection of investors who suffer losses. All too often, under the current system, investors receive settlements that amount to only about 10 percent, or even less, of their damages, and that is another whole set of problems, to hold out false hopes to people in which they may receive less than 10 percent recovery.

The direct legal expenses in settlements paid are, again, only part of the tax. There are also a variety of indirect costs, costs that fall particularly heavy on the entrepreneurial and high-tech companies on which our future economy depends.

Of course, investors want to be protected from fraud, but they also want to be able to get as much information as possible, and they also want to be sure that their companies are focused on their business instead of on potential lawsuits and litigation.

Mr. President, it is important for us all to remember that investors are not just investors. Investors are also employees who want their companies to do well. There are also parents who want to see expanded economic opportunity for their children. They are also participants in the United States economy, and they want to see the kind of strong growth and job creation that goes along with a strong economy.

Our world economy is more and more competitive. Our future prosperity depends on our ability to meet and beat that international competition, and that means we need a continuing supply of new ideas, new products, and new companies that can produce the jobs for tomorrow. These major issues may seem a long way from the arcane securities law issues we are debating and discussing this evening. But, Mr. President, the connection is both strong and direct.

A recent book by Hendrick Smith entitled "Rethinking America," I think, illustrates the connection. That book has chapter after chapter recounting the challenges facing American business in this new global economy. It talks about how some American businesses are succeeding and how some are not.

One of the points it makes in some detail is the short-term focus that afflicts so many American corporations, an affliction that is not shared by our major international competition.

American corporations are all too often intensely focused on the short-term price of their stock instead of the long-term growth and prosperity of the business. This short-term focus, which the current state of our securities laws helps to foster, distracts senior management, makes too many of our businesses less creative, and undermines the ability of American businesses to make the investments that have the best long-term payoff.

Our securities laws have also rendered many of our businesses mute, virtually unable to talk to their investors and owners because of the fear of lawsuits. And that fear not only disadvantages the companies and investors, it also hurts all of us because it is an impediment to the smooth functioning of our capital markets. It makes it less likely that capital is allocated in a way that produces the most and best new jobs and new products.

Let me emphasize that point. New jobs and new products. The engine of our economy depends in large part on the vitality of our capital markets and, in the final analysis, Mr. President, that is what this debate is all about.

I cosponsored S. 240, along with Senator DODD and other members of the committee because this bill has been based on the recognition of all of these facts. S. 240 acknowledges the multiple rolls and multiple interests that we all have in this area, and it is based, I think, on an understanding that we are all in this together. We must maintain strong investor protection while making it more difficult to file frivolous or abusive lawsuits.

We must create a climate where new businesses that create new jobs and new products can get the capital they need while ensuring that defrauded investors have the right to recover their damages.

S. 240, as introduced by Senators DODD and DOMENICI, went a long way toward achieving all of those objectives. The bill attempted to reduce transaction costs so that investors who

are harmed see a smaller portion of their recoveries consumed by attorney's fees and other miscellaneous costs. It was designed to help our capital markets create more jobs and create greater long-term economic growth, something that is also very good for investors.

The original bill has been modified in a number of important ways. Some of these changes represent improvements in the original bill, others represent new concepts. The bill before us is not perfect. In some areas, quite frankly, I would have written it differently and I suspect everybody in the Senate almost always feels the same way about major legislation.

I think it is clear, however, that this bill is a good-faith attempt to balance the competing public objectives in this area and that looking at the overall legislation it successfully achieves balance and that, I think, is a very important notion as we address this issue. Achieving balance is important to keeping our capital markets vital, and it is important to our economic prosperity.

It is important, Mr. President, again to keep in mind what this area of the law is all about and what the bill does and does not do. This may get a little technical, but I guess a lot of the conversation here has gone into the particular aspects of the bill that are the most controversial.

What we are talking about has to do with private rights of action for fraud under section 10(b) of the Securities Exchange Act and rule 10b–5 of the Securities and Exchange Commission. Those laws did not expressly provide private parties with a right to sue corporations or other parties involved in the issuance and sale of securities. However, this area of law has evolved out of a long series of judicial decisions, not legislative actions.

S. 240 will help reduce frivolous and abusive security suits, and it achieves that objective without encouraging fraud and without undermining the rights of investors, and particularly small investors, to recover where there actually is fraud.

Some argue that the bill is somehow unbalanced because it limits joint and several liability and because it does not extend the statute of limitations in private section 10(b) cases. The bill, however, holds everyone—I emphasize that—everyone who commits ''knowing'' securities fraud jointly and severally liable. Other defendants may be only ''proportionately'' liable; that is, they may be only responsible for the share of the harm that they cause. That ensures that parties who may be only 1 percent or 2 percent responsible for the fraud are not added defendants in cases simply because they have deep pockets.

Proportionate liability is far from a new concept. We have had it in the tort area in my own State of Illinois for a number of years. It is an important and necessary change. Without it, many people will not deal with the small entrepreneurial, startup companies that are the most likely to be sued—and I point out that are most likely to create jobs—because the potential liability is so much greater than the profit that can be earned from doing business with these companies. Many companies are increasingly unable to find accounting firms and law firms willing to do business with them and are having increasing difficulty in attracting the best people to sit on their boards of directors. And the result of that is, again, less information and less protection for investors and greater hurdles for the new companies on which our economic future depends.

Of course, in some cases, the parties most responsible for fraud are judgment proof; that is, they have no assets at all that can be found. In those situations, this bill provides, I think, substantial protection for small investors. First, it says that defendants that are proportionately liable have their share of responsibility increased up to 50 percent of their proportionate share, so that all investors are better compensated for the losses they have suffered. For small investors, those with a net worth of under $200,000, who suffer a loss of at least 10 percent of their net worth, every defendant is jointly and severally liable for paying those damages—a provision in this bill that I think ensures that small investors get that extra protection.

The proportionate liability provisions are not the only provisions, however, that have been the subject of criticism. Some argue that S. 240 is flawed because of a provision that it does not include, and that is the provision that has to do with an extension of the statute of limitations.

Mr. President, it is true that S. 240 is silent on the issue of the statute of limitations. But this is not to disadvantage small investors or any other investors. Four years ago, in a case known as the Lampf decision, the Supreme Court of the United States decided that the implied rights of action for private parties under section 10(b) were subject to the same statute of limitations that applied more generally in other areas of the securities law—1 year from the date of discovery of the fraud, or 3 years from the date of the fraud.

It is worth noting that the court did not disadvantage section 10(b) cases relative to other security cases; it simply said that the same statute of limitations applies, which is hardly a revolutionary idea. In the 4 years since the Lampf decision was rendered, there has been no substantial evidence presented that investors are being harmed by that decision.

Statutes of limitation, by their very nature, have some degree of arbitrariness to them. In this area, the evidence is that the overwhelming number of cases are being brought within a year of the time the alleged fraud occurs, which tends to indicate that a longer statute may not be needed. Most cases are not filed just before the statute of limitations expires, so the 1-year/3-year statute of limitations does not seem to be making it difficult for plaintiffs to prepare their complaints.

My own conclusion is that, in light of the evidence, a case has not been made for giving section 10(b) implied private rights of action in fraud cases a longer statute of limitations than other Federal securities law related cases.

Mr. President, one of the provisions of this bill that has been the subject of some attention has to do with the issue of whether or not it includes something that has been called the English rule or losers pay. That has been a rule that never frankly has been applied in American jurisprudence. It is the English rule that says if you file the lawsuit and you lose, then you have to pay the cost of litigation. However, this bill does not have loser pay in it. The bill simply requires the judge to look at rule 11 of the Federal Rules of Civil Procedure, a rule that already exists and pertains to all kinds of civil litigation and which calls for sanctions for frivolous lawsuits to determine in these securities cases whether or not any party has violated rule 11 and, if so, to impose sanctions.

That is a far cry, Mr. President, from the English rule, from what has been called ''loser pays.''

The bill also establishes what is called a ''safe harbor.'' This provision in some ways offers more protection for investors and less, frankly, for issuers of security than do some of the leading court decisions in this area today.

And so what is at issue here with the safe harbor question has to do with what are known as forward-looking statements, statements by issuers of securities that describe future events or that estimate the likelihood of selected future events occurring.

SEC rule 175 states that forward-looking statements made with a reasonable basis and in good faith cannot be used as a basis for a fraud action. That is already law.

However, Mr. President, as a practical matter, the safe harbor that it provides turned out to be not very safe at all. What added real protection was a third circuit case that recognized what is called the bespeaks caution doctrine, a doctrine that is now recognized in at least five circuits. Under this doctrine, under the bespeaks caution doctrine, forward-looking statements accompanied by meaningful cautionary statements, that is, statements that indicate the risks the forward-looking statements will not come true, are as a matter of law immaterial and therefore cannot be used as a basis for fraud action.

Under this bill, however, the bespeaks caution doctrine would not apply to issuers who made statements with the actual intent of misleading investors even if they were accompanied by meaningful cautionary statements.

To that extent, Mr. President, this legislation is more protective of investor's interests in that regard than the evolving state of the law in at least five circuits in this country.

Again, these are all highly technical areas, and there is a lot more that I can say about the issues and other issues raised by this legislation. However, I instead want to make one final point.

A simplistic analysis of this bill says this is a fight between the lawyers and the corporations and that the proponents of the bill, the people who support the bill, are somehow engaged in lawyer bashing. I cannot speak for every supporter of this bill, but I wanted to make it as clear as I can that as a lawyer myself, I care very much about the profession, and my view is that lawyer bashing has no place in this debate. The great bulk of the work of lawyers in the securities litigation area has been of enormous benefit to investors and to the public generally. The securities plaintiffs bar, frankly, has been particularly helpful in helping small investors, and it has played an instrumental role in keeping our capital markets respected worldwide. They have provided a necessary check in a system that, again, presumes honesty.

I would not have agreed to cosponsor this bill if I concluded that it would limit their important and legitimate role of the trial bar, of the securities bar, or if I believed this bill would take away from investors opportunities to recover damages from those who, in fact, had defrauded them.

What makes this bill necessary, however, are the abuses by a relatively small number of people who have thrown the system out of balance. S. 240 does nothing more than restore that balance, Mr. President.

I want to conclude by congratulating again Senator DODD and Senator DOMENICI and the leadership of the Banking Committee for all the hard work that has been put into this legislation and for the way everyone has worked together in a bipartisan fashion and in good faith to resolve some of the complicated issues in this area as they have arisen.

This bill may be a bill that leaves none of us fully satisfied, everybody is going to have another idea. But the compromises represented in S. 240 are good ones. They will be good for our capital markets. This bill will be good for economy. This bill will be good for job creation, and it will be good for the American people, generally, in all their roles.

On that basis, I support this legislation and I urge its passage by the Senate. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

Mr. President, I have sought recognition to comment briefly on the pending legislation and to offer a motion on behalf of Senator BIDEN, Senator SHELBY, Senator FEINGOLD, and myself to refer the bill to the Committee on the Judiciary in order to consider some very important issues which have not had a hearing in the Banking Committee, because the Banking Committee under its own procedures does not customarily take up questions on the Federal Rules of Civil Procedure regarding which the pending legislation makes a great number of very significant changes.

The rules which govern court procedure are customarily fashioned by judges, and they are established by the Supreme Court of the United States with an advisory committee which considers the details of these provisions. They are complicated on matters such as how pleadings are formulated, how specific you have to be, and what to say to get in court before you are entitled to discovery; what rules govern when you take depositions, for example; that is, when questions are asked by one side of the parties on the other side. What happens with respect to sanctions when lawyers do not operate in good faith or bring frivolous lawsuits, or what happens on class representation.

These are the kinds of questions which I have had some experience with, although not recently. But I had experience when I practiced civil law before coming to the U.S. Senate. And on the Judiciary Committee, having been a member there for 14½ years, I have had some continuing familiarity with these issues, but nothing compared to the individuals who are in the courts every day.

On that subject, I discussed some of the issues raised by this bill with a longstanding friend of mine going back to college days at the University of Pennsylvania, Judge Edward R. Becker, who is now a very distinguished jurist on the U.S. Court of Appeals for the Third Circuit, and one of the premier Federal judges in the country.

Judge Becker was appointed to the Federal Court in 1971. He served for 10 years as a trial judge day in and day out, and for the past 14 years he has been on the court of appeals and is a recognized expert on Federal procedure, lectures in the field, and is highly regarded as one of the most knowledgeable of the Federal judges.

Some of the comments which Judge Becker has made to me in a relatively brief letter illustrate to some extent the problems which are present in the current legislation.

I compliment the Senator from California, the Senator from Nevada, and the Senator from Maryland, the ranking member of the committee, the chairman of the committee, and also the Senator from New Mexico, Senator DOMENICI, and the Senator from Connecticut, Senator DODD, who have drafted this legislation, for the very constructive work which they have done. But there are many very, very important provisions which have not been subjected to the kind of analysis which comes only with real experience in the courts on a day-in and day-out basis.

Having had that experience, I know the difference between the legislative process and the judicial interpretive process. Those judges see these matters day in and day out. They know what happens in a very practical sense. They have a much deeper familiarity with the way they work out than we do in the Congress.

As the Presiding Officer knows, and as my colleagues know, frequently in our hearings in the Senate, only one or two Senators are present. When markup occurs it is done as carefully as we can, but not with the kind of craftsmanship which judges employ day in and day out.

These are some of the comments which Judge Becker has made which I think are worthy of consideration. They are not dispositive of all of the issues but are illustrative of the kinds of complex matters which we think require a great deal more consideration than we have had so far.

This legislation is enormously important. It is enormously important as it governs the securities field where capital is formed so that the free enterprise system can function, so that when representations are made in the prospectuses that sufficient information is given to investors to know what is happening, to see to it that the representations are honest, and that the millions and millions of people who invest in securities are protected—and not that there is any absolute guarantee that they will earn dividends or make money on capital gains because there is a certain amount of risk, but that there are representations honestly made, that they are protected against fraud, and that the procedures balance the concerns of the companies, not subjecting them to frivolous litigation but balance the concerns of the investors.

Judge Becker has made this comment, for example, on the rule of procedure which governs the designation of lead counsel:

> Most of the provisions prescribe things the courts already do—for example, designating lead counsel—or at least can do within the exercise of their discretion. Section 102 constitutes congressional micromanagement with the untoward effect of depriving judges of the flexibility which is indispensable for effective case management.

One of the bill's important provisions relates to sanctions, which are important in litigation to ensure that the court has the flexibility to manage the case and that lawyers do not abuse the process, that is, they do not bring frivolous lawsuits, and frivolous lawsuits are brought. We know that as a matter of fact. Really no one contests that. Or no one contests the need for limiting frivolous lawsuits. And there is a generally recognized need that we ought to have reform in this field.

Some of the provisions of current law, for example on joint and several

liability, have imposed very extensive liability on accountants who do not know the inner workings of the representations but are held under the concept of joint liability. There needs to be a close look at the kind of liability imposed.

So that when you talk about frivolous lawsuits and how to deter them, we do need to have very substantial review of that issue. But I have found that the provision of the bill regarding the rule which requires mandatory sanctions by the court perhaps goes too far, and we do not know that for sure really until we analyze it in some detail. But this is what Judge Becker had to say about that:

> Mandatory sanctions are a mistake and will only generate satellite litigation.

And by satellite litigation, Judge Becker was referring to the situation where, after the case is over, then a whole new litigation process starts as to whether sanctions are really required.

Under present law, the judge has discretion to award sanctions, and there has to be a motion made by the party that thinks that the other party has acted inappropriately. Before a party can ask for sanctions, the party must give notice to the other party of its view that something wrong has been done in order to give the allegedly offending party an opportunity to correct it.

That is done in litigation to try to have the parties work it out. If somebody does not like what the other party is doing, they say, ''Wait a minute; you ought to stop that.'' It gives that party a chance to reflect on the reasons. If it does not stop, then the party can make a motion for sanctions. But under this legislation, the judge has the obligation on his own to review the record and to impose sanctions. That is contrary to the American system of adversarial litigation where the judge does not have the responsibility for making that determination on his own; one of the parties who feels aggrieved says to the court: Something wrong has been done here, and I make a motion to have it corrected. This is more like the inquisitorial system which the French have where the judge is the moving party.

Judge Becker has this to say after commenting on the satellite litigation.

> The flexibility afforded by the current regime enables judges to use the threat of sanctions to manage cases effectively. Well managed cases almost never result in sanctions. The provision for mandatory review—

That is, without prompting by the parties—

> will impose a substantial burden on the courts and prove completely useless in the vast majority of cases. Requiring courts to impose sanctions without a motion by a party also places the judge in an inquisitorial rule which is foreign to our legal culture, which is based on the judge as a neutral arbiter model.

The judge then refers to a rule drafted by a very distinguished judge, Judge Patrick Higginbotham of the Court of Appeals for the Fifth Circuit, who is chairman of the Judicial Conference of the Advisory Committee on Civil Rules. And this is what Judge Higginbotham says ought to be done:

> In any private action arising under this title, when an abusive litigation practice is brought to the District Court's attention by motion or otherwise, the Court should promptly decide, with written findings of fact and conclusions of law, whether to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure or its inherent power.

And that is really giving discretion to the court. Perhaps on analysis the provision in the bill on mandatory would be retained. But I think it is indispensable, Mr. President, that that kind of careful analysis be made.

Other provisions set out in the current bill make very substantial changes to the Federal rules. There is a requirement that the potential outcome of the suit be disclosed, and there are special disclosures relating to settlement terms. These provisions have an impact on rule 23, the class action rule. The bill also contains certain unique provisions governing the appointment of lead counsel in class actions, none of which have been given a hearing.

I discussed with the chairman of the committee, the Senator from New York, Senator D'AMATO, the procedures used by the committee, and I think I am accurate in stating—and he can comment on this if the truth is to the contrary—that this is a provision added very late, and there had not been hearings.

There are also changes in the rules relating to discovery under rule 26, and there are differences in rules relating to the specificity of allegations of pleadings, affecting rule 9.

Without going into any great detail, these are all matters which really ought to be reviewed by the Judiciary Committee, which has the expertise under our Senate rules for handling matters of this sort. It is not the kind of a matter which is customarily brought before the Banking Committee.

This same issue was raised by the Chairman of the Securities and Exchange Commission, Arthur Levitt, in a letter dated May 25, 1995, to Senator D'AMATO. Chairman Levitt commented as follows:

> I also wish to call your attention to a potential problem with the provision relating to rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in their draft may have the unintended effect of imposing a loser-pays scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

The loser-pays scheme, Mr. President, is one which Great Britain has where the loser has to pay the costs of litigation, and that is a very, very abrupt and drastic change in our litigation procedure.

The bill currently provides for mandatory sanctions and contains a presumption that the loser will pay sanctions and that the appropriate sanction is the other party's attorneys' fees. This would have a very major, chilling effect on bringing any litigation. And that presumption can be overcome but it starts off on an unequal footing where the same requirement is not imposed on the defense, on the other side in the litigation. I am sure that there will be consideration of this substantive revision in the course of the analysis of this bill. But this again is something which really ought to have the benefit of a hearing in the Judiciary Committee.

Mr. President, I had advised the chairman, the Senator from New York [Mr. D'AMATO], that I would not be in the position to vote on this matter until others had a chance to come to the floor, specifically Senator BIDEN. I know that there are other Senators on the floor who wish to speak at this time. And it would be my hope that we can move to a vote this evening. I do not want to keep Senators here unnecessarily but I believe that Senators are present with the expectation of having a vote on final passage on the highway bill where there is still one matter which is left to be worked out.

But I do want to make that stressed statement that until Senator BIDEN returns we have an opportunity to have debate on this subject. There are some matters I want to discuss with the Senator, the chairman, the Senator from New York, who is necessarily absent at this time.

Before yielding the floor—I shall not hold the floor very much longer—there will not be more than one final statement that I will make, as I see my colleague from Utah, rising. I do want to make a brief comment about the bill generally as to information provided to me by the chairman of the Pennsylvania Securities Commission who has raised very substantial problems with the bill. I want to call those to the attention of my colleagues. This is a letter to me from Chairman Robert Lam, dated April 19, 1995, in which Chairman Lam makes this statement. ''I have considered the major elements of both'' Senate bill 240, which is the one currently being considered, and Senate bill 667, which is a different bill introduced by Senators SHELBY and BRYAN. It is the conclusion of Chairman Lam of the Pennsylvania Securities Commission that the other bill, the one not on the floor, is much preferable. Chairman Lam concludes by saying, Senate bill ''240, on the other hand, tilts the balance too far in favor of corporate interests and would have the practical effect of depriving many defrauded investors the ability to cover their losses.''

In a letter dated June 20, 1995—I shall include both of these letters for the record, so I do not have to take much time. Chairman Lam writes as follows,

> As presently constituted, S.240 not only would affect negatively Pennsylvania investors but also Pennsylvania taxpayers should the Commonwealth Treasury Department

again become a potential victim of wrongdoing in securities transactions undertaken on behalf of the Commonwealth. The importance of the potential negative effects of this Bill on the Commonwealth is reflected by the Treasury Department's recent suit against Salomon Brothers for damages resulting from alleged wrongful conduct engaged in by Salomon in connection with its bidding on government bonds.

And Chairman Lam of the Pennsylvania Securities Commission concludes with this statement.

As a participant in the capital formation process, I would like to emphasize that our financial markets run most efficiently when there is a high degree of public confidence in the integrity of the marketplace. Money is merely the medium of exchange between this confidence and the honest entrepreneur. As written, S.240 will not advance the goal of making capital available to growing U.S. companies. It will result in small investors avoiding participation in our capital markets when they discover that they are unable to bring suit against the perpetrators of aiders and abettors of a securities fraud or, upon winning such a suit, fail to be made whole because the Bill adopts the concept of ''caps'' on total defendant liability.

I do ask unanimous consent, Mr. President, that the full text of these two letters from Chairman Lam be made a part of the record at the conclusion of my speech.

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

(See exhibit 1)

Mr. SPECTER. In conclusion, Mr. President—the favorite words of any speech, and with finality—I will pursue this motion as the evening progresses and do believe that it is very important that the full range of considerations raised by Chairman Lam be considered, issues that have otherwise been raised, but especially these procedural questions be considered by the Judiciary Committee which under our rules has the jurisdiction to consider them.

MOTION TO COMMIT

Mr. SPECTER. On behalf of Senator BIDEN, Senator SHELBY, Senator FEINGOLD, and myself, I do move to commit the pending bill, Senate 240, to the Committee of the Judiciary.

I thank the Chair and yield the floor.

EXHIBIT 1.

PENNSYLVANIA SECURITIES, COMMISSION,
April 19, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

RE: Pending Securities Litigation Reform Bills S. 240 and S. 667

DEAR ARLEN: In my capacity as the Chairman of the Pennsylvania Securities Commission, I am writing to express my views on the two major securities litigation reform bills now before the Senate. The Pennsylvania Securities Commission is responsible for investor protection and overseeing the capital formation process in the Commonwealth.

It is my view that any securities litigation reform legislation must be carefully balanced so that it provides relief to companies and professionals who may be the subject of frivolous lawsuits while preserving a meaningful private remedy for defrauded investors. While much of the debate in Washington has focused on how to protect honest companies and professionals from vexatious lawsuits, I believe there is an equally compelling need to maintain the ability to deter and detect wrongdoing in the financial marketplace.

From my vantage point, there continues to be an unacceptably high level of fraud and abuse in today's capital markets, particularly with respect to small investors. As the limited resources of government are insufficient to pursue every case of wrongdoing, the ability of defrauding investors to maintain a private cause of action to recover their investment without fear of financial ruin remains critically important to the overall successful enforcement of the securities laws.

It is against this backdrop that I have considered the major elements of both S. 240, the ''Private Securities Litigation Reform Act,'' introduced by Senators DOMENICI and DODD, and S. 667, the ''Private Securities Enforcement Improvements Act,'' introduced by Senators SHELBY and BRYAN. It is my conclusion that S. 667 is very much the preferable legislative vehicle for resolving the securities litigation reform debate. S. 667 achieves the critical balance between making the litigation system more fair and more efficient, while preserving the critical role that private actions play in maintaining the integrity of our financial markets. S. 240, on the other hand, tilts the balance too far in favor of corporate interests and would have the practical effect of depriving many defrauded investors the ability to recover their losses.

Among the provisions of S. 667 that I support are: (1) an innovative early evaluation procedure designed to weed out clearly frivolous cases; (2) a more rational system of determining liability among defendants; (3) certification of complaints and improved case management procedures; (4) curbs on potentially abusive attorney practices; (5) improved disclosure of settlement terms; (6) a reasonable safe harbor for forward looking statements; (7) restoration of aiding and abetting liability; (8) a reasonable extension of the statute of limitations for securities fraud suits; (9) codification of the recklessness standard of liability as adopted by virtually every U.S. Circuit Court of Appeals; and (10) rulemaking authority to the SEC with respect to fraud-on-the-market cases. A detailed comparative analysis between S. 667 and S. 240 is enclosed.

S. 667 proves that it is possible to craft securities litigation reform measures that target abusive practices without sacrificing the opportunity for recovery by defrauding investors. Therefore, I strongly encourage you to become a co-sponsor of S. 667.

Securities litigation reform is one of the most important issues for small investors that will be considered by the 104th Congress. It is my hope that the Senate will give serious consideration to S. 667 as the appropriate response for constructive improvement in the federal securities litigation process. If you have any questions about my position on securities litigation reform, please do not hesitate to contact me at (215) 635–6262 or Deputy Chief Counsel G. Philip Rutledge at (717) 783–5130. I would be pleased to provide you or your staff with any additional information you may require on this most important issue to individual Pennsylvania investors.

Very truly yours,

ROBERT M. LAM,
Chairman

PENNSYLVANIA
SECURITIES COMMISSION,
COMMONWEALTH OF PENNSYLVANIA,
June 20, 1995.

Re: amendments to Senate bill 240, ''Private Securities Litigation Reform Act''

Hon. ARLEN SPECTER,
U.S. Senate, 530 Hart Senate Office Building, Washington, DC.

DEAR ARLEN: It is my understanding that Senate Bill 240 is now before the full U.S. Senate for consideration.

The Pennsylvania Securities Commission is charged under the Pennsylvania Securities Act of 1972 with the protection of investors. While the Commission has stated its position in previous correspondence (April 17, 1995) that it favors certain securities litigation reforms (as contained in S.667), it believes that S.240, as currently constituted, does not achieve the appropriate balance between protecting investors and discouraging frivolous lawsuits against honest companies and professionals. Instead, the practical effect of S.240 would be the elimination of private actions under federal law for Pennsylvanians who found themselves to be a victim of securities fraud.

It is my understanding that amendments to S.240 will be offered on the Senate floor to strengthen its investor protection provisions, i.e. extending the statute of limitations for civil securities fraud actions (Pennsylvania recently extended its statute of limitations period for securities fraud to four years); fully restoring liability for aiding and abetting securities fraud; restoring joint and several liability so defrauded investors can be made whole; and peeling back the immunity for companies to make outrageous claims of future profits or performance.

The Commission asks you to support adoption of these amendments. If, however, all these vital investor protection amendments are not adopted, the Commission, on behalf of Pennsylvania investors, strongly urges you to vote against S.240.

As presently constituted, S. 240 not only would affect negatively Pennsylvania investors but also Pennsylvania taxpayers should the Commonwealth Treasury Department again become a potential victim of wrongdoing in securities transactions undertaken on behalf of the Commonwealth. The importance of the potential negative effects of this Bill on the Commonwealth is reflected by the Treasury Department's recent suit against Salomon Brothers for damages resulting from alleged wrongful conduct engaged in by Salomon in connection with its bidding on government bonds.

As a participant in the capital formation process, I would like to emphasize that our financial markets run most efficiently when there is a high degree of public confidence in the integrity of the marketplace. Money is merely the medium of exchange between this confidence and the honest entrepreneur. As written, S. 240 will not advance the goal of making capital available to growing U.S. companies. It will result in small investors avoiding participation in our capital markets when they discover that they are unable to bring suit against the perpetrators or aiders and abettors of a securities fraud or, upon winning such a suit, fail to be made whole because of the Bill adopts the concept of ''caps'' on total defendant liability.

Thank you for considering our views. If you or your staff have any questions concerning how this Bill negatively affects Pennsylvania and Pennsylvania investors, please contact G. Philip Rutledge or K. Robert Bertram of the Commission staff at (717) 783–5130.

Very truly yours,

ROBERT M. LAM,
Chairman.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the Senator from Illinois has been patient and is scheduled to be the next speaker.

Before we hear from her, I have been asked to perform a few housekeeping details. Senator HATCH, the chairman of the Judiciary Committee, has asked me to announce on his behalf that he cannot come here at the moment. I am sure the Senator from Illinois is delighted that that means she will not be delayed further. But he did ask that the statement be made on his behalf that as chairman of the Judiciary Committee he opposes the referral contained within this motion.

I ask unanimous consent that at 8:30 this evening Senator D'AMATO be recognized to make a motion to table the motion to commit the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, there are issues, and I need to discuss them with the chairman which I talked to him about earlier. And also my principal cosponsor, Senator BIDEN, is not available yet to make an argument.

Mr. BENNETT. Mr. President, I renew the unanimous consent request that at 8:30 this evening Senator D'AMATO be recognized to make a motion to table the motion to commit the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SARBANES. Mr. President, parliamentary inquiry? What is the parliamentary situation here?

The PRESIDING OFFICER. There is a motion to commit the bill to the Judiciary Committee pending.

Mr. SARBANES. Is there further debate in order?

The PRESIDING OFFICER. There is.

Mr. SARBANES. On the motion or on the bill? Either?

The PRESIDING OFFICER. The motion is pending. You can debate either.

Mr. D'AMATO. At the conclusion of Senator BIDEN's remarks, I ask unanimous consent that he yield the floor back to me for the purpose of making a tabling motion. I would like to simply state that Senator HATCH has indicated that he is not in favor of the motion for sequential referral, and that this is not a new matter. This matter has legislatively been on an agenda now for some four years. That is the only comment I will make.

I will yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I thank the Senator from New York. What I am about to say, I say standing next to my good friend from Connecticut, Senator DODD, who has worked tirelessly on this bill, with which I disagree, but I want to make a very brief statement.

I strongly support the position taken by the Senator from Pennsylvania. This litigation makes numerous precedent-setting changes in the country's judicial system. While my colleagues in the Banking Committee had a chance to examine the changes the bill would make to our Nation's security laws, it seems to me that we may have skipped a very important step. The so-called Securities Reform Act makes significant revisions to the Federal rules of evidence relating to mandatory rule 11 sanctions and rule 26 discovery proceedings, and yet, it has not been referred to the Judiciary Committee.

I hold myself partially responsible for that. In truth, I say to my friend from Connecticut, I should have been hollering for this in my committee before this time. I was mildly preoccupied with other things before the committee. To tell you the truth, it was called to my attention by my friend from Pennsylvania, and I realize this is a serious mistake, in my view, and that we have not had this before the Judiciary Committee.

In the past, bills that have made changes to the Federal rules of evidence were referred to the Judiciary Committee to enable the committee with expertise to review the work on this legislation. This bills is no different. Similarly, limiting joint and several liability, restricting the statute of limitations, changing the rules of class action suits in favor of large investors, are all judiciary-related issues. Yet, the Judiciary Committee never had a day of hearing on any of these specific issues.

If the bill becomes law, companies could potentially get away with making misleading, even fraudulent, statements about their earnings. Yet, to win a class action suit, you would have to prove a falsehood was made with a clear intent to deceive. That is an incredibly tough standard. I will admit some frivolous lawsuits are filed. Some lawyers do make too much from a suit, leaving defrauded investors with little. But I do not believe this massive bill is the answer.

So in order to protect the small investors, it seems to me that we should at least look at the significant changes in the rules of evidence. If this bill passes, I make the prediction to us all here, we will be back in two, three, four years undoing it, after another Orange County or another insider trading scandal, or after millions of people are defrauded with some other scam that occurs.

Quite frankly, I think we would be wise to take a close look, with a specific time for referral, if need be, to the Judiciary Committee, to look at these changes in the rule of ethics.

I do not profess to have expertise in the securities industry, but we do know something about the rules of evidence and the shifting burden of truth.

I thank my colleague for his indulgence, and I thank the Senator from Illinois. I thank the Senator from Connecticut for not getting up and saying, "Why, JOE, did you not do this earlier?"

I yield the floor.

Mr. D'AMATO. Mr. President, I intend to make a motion to table.

Mr. DODD. Mr. President, will my colleague yield?

Mr. D'AMATO. I am happy to yield.

Mr. DODD. Just to say, Mr. President, this has been about 4 years on this matter.

This hour, we are now under consideration of the bill—I say this with all due respect to my good friends on the Judiciary Committee; it has been no secret that this legislation has been pending—at this particular hour to secure sequential referral, in effect, would kill the legislation.

I think all of our colleagues ought to be aware of that at this juncture. This is our opportunity in a moment to move on this. We have had extensive hearings, heard from lawyers and others on all sides, and worked closely with them.

With all due respect to our colleagues on the Judiciary Committee, I would hope this motion to table would be approved.

Mr. D'AMATO. Mr. President, I move to table the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to commit. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. [KEMPTHORNE], and the Senator from Mississippi [Mr. LOTT] are necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. INOUYE], the Senator from Nebraska [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

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

The result was announced—yeas 69, nays 19, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—69

Abraham	Coverdell	Frist
Ashcroft	Craig	Glenn
Baucus	D'Amato	Gorton
Bennett	DeWine	Grams
Brown	Dodd	Grassley
Burns	Dole	Gregg
Campbell	Domenici	Harkin
Chafee	Dorgan	Hatch
Coats	Exon	Hatfield
Cochran	Faircloth	Hutchison
Cohen	Feinstein	Inhofe
Conrad	Ford	Jeffords

Johnston	Moseley-Braun	Rockefeller
Kassebaum	Moynihan	Roth
Kerry	Murkowski	Santorum
Kohl	Murray	Simpson
Kyl	Nickles	Smith
Levin	Nunn	Snowe
Lieberman	Packwood	Stevens
Lugar	Pell	Thomas
Mack	Pressler	Thompson
McConnell	Reid	Thurmond
Mikulski	Robb	Warner

NAYS—19

Akaka	Feingold	Sarbanes
Biden	Graham	Shelby
Boxer	Heflin	Simon
Breaux	Hollings	Specter
Bryan	Kennedy	Wellstone
Byrd	Leahy	
Daschle	McCain	

ANSWERED 'PRESENT'—1

Bond

NOT VOTING—11

Bingaman	Helms	Lautenberg
Bradley	Inouye	Lott
Bumpers	Kempthorne	Pryor
Gramm	Kerrey	

So the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote 281, I was recorded as voting ''no.'' It was my intention to vote ''aye.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

This request has been cleared by both the majority and the minority.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. STEVENS. Regular order.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me explain that under our previous agreement, when I call for the regular order, the highway bill comes back. I understand they have agreed to the Stevens-Murkowski amendment with Senator BUMPERS. That would be adopted. There would be speeches for the record; very short. Then we would proceed to final passage of the highway bill.

Mr. CHAFEE. Right, by voice vote.

Mr. DOLE. Does anybody request a rollcall on final passage?

I ask unanimous consent that once the amendment is agreed to, and the committee substitute, as amended, is agreed to, the bill will be advanced to third reading, the bill passed, and the motion to reconsider be laid on the table, with the above occurring without any intervening action.

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

ORDER OF PROCEDURE

Mr. DOLE. There will be no more votes tonight. There will be a vote at 10:55 tomorrow morning. The first vote will be at 10:55. It will be on the amendment by the Senator from Alabama, Senator SHELBY, and Senator BRYAN.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1467

Mr. STEVENS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. At the request of the majority leader, S. 440 is now the pending business.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. MURKOWSKI, Mrs. HUTCHISON, and Mr. BENNETT, proposes an amendment numbered 1467.

At the appropriate place in title I of the bill insert the following new section:

SEC. . MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights of way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) This section shall cease to have any force or effect after December 1, 1995.

Mr. STEVENS. Mr. President, in response to the request, we have agreed to this amendment which is a moratorium on proceeding with the regulations as proposed by the Department of the Interior that have not been issued in final form yet, but we know they are under consideration.

Let me state that this amendment does not affect any judicial action or decision instituted since 1976, any pending judicial action or any future judicial action. It is not intended to affect any case law with respect to rights of way granted pursuant to Revised Statutes 2477. This deals simply with the proposal to issue regulations to, in effect, determine through sovereign power that the rights of the States would be invaded as those States rights were known under Revised Statutes 2477, which was repealed in 1976.

I have offered this on behalf of my colleague Senator MURKOWSKI and the two Senators from Utah, Senator HATCH and Senator BENNETT. I do believe it will achieve the goal of just having a moratorium on the preparation of regulations so that the committees involved and the States involved may try to work this out without very expensive litigation that would ensue, and in the case of our State it would be just a disastrous prospect of litigating some 600 or more separate rights-of-way.

I am grateful to the Senate for having delayed the action until this time to enable us to have a proposal go to the House, which I hope the House will agree with, to establish this moratorium. It will simply delay the process as far as the administrative regulations that were proposed by the Department of the Interior.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am glad we could come to an agreement on an amendment to restrict the Department of the Interior or any other Federal agency from taking any action on finalizing a rule or regulation with respect to Revised Statute 2477 until December 1, 1995. This will allow some of my colleagues, including my colleague from Arkansas, to take a careful look at this issue. I want to make it clear that we will be offering legislation in the future to resolve this problem for Alaska.

R.S. 2477 simply states: The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted. The 1866 law was repealed by FLPMA in 1976. But between 1866 and 1976, R.S. 2477 allowed the creation of property rights across Federal lands for rights-of-way. These rights-of-way have provided essential access through the Western States—and especially in Alaska. Recognizing this, Congress intentionally protected the R.S. 2477 rights-of-way in FLPMA. However, the Department of the Interior proposed regulations in August of 1994 to make it much more difficult to establish right-of-way claims across Federal lands established under the Revised Statutes 2477.

DOI claims the reason they are doing the regulations is to make a logical process to get R.S. 2477 rights-of-way recognized. BUT the regulations would actually:

Override State law with restrictive new definitions of highway and construction;

Put a cloud on the title to R.S. 2477 roads, treating them as invalid until proven valid;

Prevent any future expansion of scope of an R.S. 2477 right-of-way, preventing making the right-of-way any wider, so a dogsled trail will remain a dog sled trail;

Set a sunset on administrative and court action on validity of R.S. 2477 by extinguishing claims not filed within 2 years and 30 days after final rule is issued;

Although a claimant could still turn to the courts, DOI states that the regulations serve as notice to claimants for purpose of the Quiet Title Act, which provides a 12-year statute of limitations—but true to form, DOI did not put a time limit on themselves to process the claims;

Construction and maintenance will not be permitted without approval of DOI with 3 days notice, preventing the fixing of washed out roads until DOI approval.

The draft R.S. 2477 regulations from the Department of the Interior are nothing more than an attempt to prevent legal access across our public

lands. It would impose an impossible task on State and local governments to make all claims for rights-of-way on Federal lands and then have to validate each one of the claims. Nowhere would this be more burdensome than in my State which is one-fifth the size of the United States and more than twice the size of Texas—yet has less roads than Vermont.

There regulations are clearly an effort to make sure Alaska and other Western States cannot have access across Federal lands. This amendment to stop the Department of the Interior from taking any action to implement the final rules and will provide us time to look at the best approach to finally resolving the R.S. 2477 issue.

I want to thank the Senator from Arkansas for his cooperation on the Steven's R.S. 2477 amendment. As chairman of the Energy and National Resources Committee I intend to have hearings on this matter soon and will be working on a legislative or administrative solution. The Senator from Arkansas has expressed interest in working with me on this issue, and I appreciate that offer. However, if we work in good faith, but fail to find a solution by the December date in the Steven's amendment, the Senator from Arkansas has assured me that there will be a further extension.

I want to join with the senior Senator from Alaska and also thank our colleagues: Senator WARNER, Senator BUMPERS, Senator CHAFEE, and Senator BAUCUS, and as a consequence of their willingness to acknowledge the concerns expressed by the Western States, I would like for the RECORD to submit a list of States that currently have an interest in R.S. 2477. There are 16 States, and I might add for the RECORD that the Eastern States are included but they are taken collectively and not listed by name. So clearly this is a western issue.

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

USDI DRAFT REPORT TO CONGRESS—R.S. 2477, THE HISTORY AND MANAGEMENT OF R.S. 2477 RIGHTS-OF-WAY CLAIMS ON FEDERAL AND OTHER LANDS, MARCH 1993

Existing public land records indicate that approximately 1,453 R.S. 2477 rights-of-way have been recognized to date across BLM lands. At least two R.S. 2477 highways have been recognized in National Park Units—the Burr Trail located in both Capitol Reef National Park and Glen Canyon National Recreation Area in Utah and the Glade Park Road in the Colorado National Monument.

Information regarding other Federal land management agencies was not available for this draft report. Few recognized claims are thought to exist across other agency lands.

PENDING CLAIMS

Currently, there are approximately 3,947 pending claims on file with the BLM nationwide. Utah has the greatest number pending, with claims to 3,815 roads. Most other BLM States have very few claims pending. Some new assertions, that are not reflected on the table below, have been filed with various Federal agencies since the initiation of this study. However, the table below does reflect the general situation regarding filed claims. Few assertions are pending with Federal land management agency offices overall except for Utah BLM.

CURRENT R.S. 2477 CLAIMS ON BLM PUBLIC LANDS, MARCH 1993

States	Recognized claims	Pending claims
Alaska	2	10
Arizona	173	50
California	17	36
Colorado	53	8
Eastern States	1	10
Idaho	55	2
Montana	12	11
Nebraska	2	0
Nevada	137	4
New Mexico	171	0
North Dakota	0	0
Oklahoma	0	0
Oregon	450	1
South Dakota	0	0
Utah	10	3,815
Washington	17	0
Wyoming	353	0
Total	1,453	3,947

Mr. MURKOWSKI. I also want to assure my colleagues that such an effort to accommodate us is deeply appreciated, and I assure them as chairman of the Energy Committee I will hold hearings at the first opportunity on this matter to address the necessity of moving along under the stipulation for R.S. 2477 to the States that were affected, and that we do this in an expeditious manner. And the fact that we can have this input prior to the Department of Interior promulgating regulations is the interest that we share.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, I know of no further debate. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1467) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to. The bill is considered read the third time.

The question is, Shall the bill pass?

So the bill (S. 440), as amended, was passed, as follows:

S. 440

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Highway System Designation Act of 1995''.

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

Sec. 1. Short title; table of contents.

TITLE I—HIGHWAY PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Eligible projects for the National Highway System.
Sec. 103. Transferability of apportionments.
Sec. 104. Design criteria for the National Highway System.
Sec. 105. Applicability of transportation conformity requirements.
Sec. 106. Use of recycled paving material.
Sec. 107. Limitation on advance construction.
Sec. 108. Preventive maintenance.
Sec. 109. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.
Sec. 110. Federal share for highways, bridges, and tunnels.
Sec. 111. Applicability of certain requirements to third party sellers.
Sec. 112. Streamlining for transportation enhancement projects.
Sec. 113. Non-Federal share for certain toll bridge projects.
Sec. 114. Congestion mitigation and air quality improvement program.
Sec. 115. Limitation of national maximum speed limit to certain commercial motor vehicles.
Sec. 116. Federal share for bicycle transportation facilities and pedestrian walkways.
Sec. 117. Suspension of management systems.
Sec. 118. Intelligent transportation systems.
Sec. 119. Donations of funds, materials, or services for federally assisted activities.
Sec. 120. Metric conversion of traffic control signs.
Sec. 121. Identification of high priority corridors.
Sec. 122. Revision of authority for innovative project in Florida.
Sec. 123. Revision of authority for priority intermodal project in California.
Sec. 124. National recreational trails funding program.
Sec. 125. Intermodal facility in New York.
Sec. 126. Clarification of eligibility.
Sec. 127. Bristol, Rhode Island, street marking.
Sec. 128. Public use of rest areas.
Sec. 129. Collection of tolls to finance certain environmental projects in Florida.
Sec. 130. Hours of service of drivers of ground water well drilling rigs.
Sec. 131. Rural access projects.
Sec. 132. Inclusion of high priority corridors.
Sec. 133. Sense of the Senate regarding the Federal-State funding relationship for transportation.
Sec. 134. Quality through competition.
Sec. 135. Federal share for economic growth center development highways.
Sec. 136. Vehicle weight and longer combination vehicles exemption for Sioux City, Iowa.
Sec. 137. Revision of authority for congestion relief project in California.
Sec. 138. Applicability of certain vehicle weight limitations in Wisconsin.
Sec. 139. Prohibition on new highway demonstration projects.
Sec. 140. Treatment of Centennial Bridge, Rock Island, Illinois, agreement.
Sec. 141. Moratorium on certain emissions testing requirements.
Sec. 142. Elimination of penalties for noncompliance with motorcycle helmet use requirement.
Sec. 143. Clarification of Eligibility.
Sec. 144. Toll roads, bridges, tunnels, nontoll roads that have a dedicated revenue source, and ferries.
Sec. 145. Transfer of funds between certain demonstration projects in Louisiana.
Sec. 146. Northwest Arkansas regional airport connector.

Sec. 147. Intercity rail infrastructure investment.
Sec. 148. Operation of motor vehicles by intoxicated minors.
Sec. 149. Contingent commitments.
Sec. 150. Availability of certain funds for Boston-to-Portland rail corridor.
Sec. 151. Revision of authority of multiyear contracts.
Sec. 152. Feasibility study of evacuation routes for Louisiana coastal areas.
Sec. 153. 34th Street corridor project in Moorhead, Minnesota.
Sec. 154. Safety belt use law requirements for New Hampshire and Maine.
Sec. 155. Report on accelerated vehicle retirement programs.
Sec. 156. Intercity rail infrastructure investment from Mass Transit Account of Highway Trust Fund.
Sec. 157. Moratorium.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Purposes.
Sec. 204. Definitions.
Sec. 205. Establishment of Authority.
Sec. 206. Government of Authority.
Sec. 207. Ownership of Bridge.
Sec. 208. Capital improvements and construction.
Sec. 209. Additional powers and responsibilities of Authority.
Sec. 210. Funding.
Sec. 211. Availability of prior authorizations.

TITLE III—FEDERAL HIGHWAY AND RAILROAD GRADE CROSSING SAFETY

Sec. 301. Short title.
Sec. 302. Intelligent vehicle-highway systems.
Sec. 303. State highway safety management systems.
Sec. 304. Violation of grade-crossing laws and regulations.
Sec. 305. Safety enforcement.
Sec. 306. Crossing elimination; statewide crossing freeze.

TITLE I—HIGHWAY PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

''(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

''(1) DESIGNATION.—The most recent National Highway System (as of the date of enactment of this Act) as submitted by the Secretary of Transportation pursuant to this section is designated as the National Highway System.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—At the request of a State, the Secretary may—

''(i) add a new route segment to the National Highway System, including a new intermodal connection; or

''(ii) delete a route segment in existence on the date of the request and any connection to the route segment;

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

''(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in the subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

''(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

''(A) meets the criteria established for the National Highway System under this title; and

''(B) enhances the national transportation characteristics of the National Highway System.''.

(b) ROUTE SEGMENTS IN WYOMING.—

(1) IN GENERAL.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) ROUTE SEGMENTS.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

SEC. 102. ELIGIBLE PROJECTS FOR THE NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 103(i) of title 23, United States Code, is amended—

(1) by striking paragraph (8) and inserting the following:

''(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs.''; and

(2) by adding at the end the following:

''(14) Construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, public highways connecting the National Highway System to—

''(A) ports, airports, and rail, truck, and other intermodal freight transportation facilities; and

''(B) public transportation facilities.

''(15) Construction of, and operational improvements for, the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California. The Federal share of the cost of the construction and improvements shall be determined in accordance with section 120(b).''.

(b) DEFINITION.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining ''start-up costs for traffic management and control'' and inserting the following:

''The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control activities, such as integrated traffic control systems, incident management programs, and traffic control centers.''.

SEC. 103. TRANSFERABILITY OF APPORTIONMENTS.

The third sentence of section 104(g) of title 23, United States Code, is amended by striking ''40 percent'' and inserting ''60 percent''.

SEC. 104. DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.

Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

''(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

''(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.'';

(2) by striking subsection (c) and inserting the following:

''(c) DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.—

''(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall take into account, in addition to the criteria described in subsection (a)—

''(A) the constructed and natural environment of the area;

''(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

''(C) as appropriate, access for other modes of transportation.

''(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State highway agencies, shall develop criteria to implement paragraph (1). In developing the criteria, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as adopted and published in 'A Policy on Geometric Design of Highways and Streets', after adequate opportunity for input by interested parties.''; and

(3) by striking subsection (q) and inserting the following:

''(q) ENVIRONMENTAL, SCENIC, AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

''(1) allow for the preservation of environmental, scenic, or historic values;

''(2) ensure safe use of the facility; and

''(3) comply with subsection (a).''.

SEC. 105. APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS.

(a) HIGHWAY CONSTRUCTION.—Section 109(j) of title 23, United States Code, is amended by striking ''plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.'' and inserting the following: ''plan for—

''(1) the implementation of a national ambient air quality standard for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

''(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).''.

(b) CLEAN AIR ACT REQUIREMENTS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

''(5) APPLICABILITY.—This subsection shall apply only with respect to—

''(A) a nonattainment area and each specific pollutant for which the area is designated as a nonattainment area; and

''(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area was designated nonattainment.''.

SEC. 106. USE OF RECYCLED PAVING MATERIAL.

(a) IN GENERAL.—Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) is amended—

(1) by striking subsection (d) and inserting the following:

''(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

''(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of enactment of the National Highway System Designation Act of 1995, the Administrator of the Federal Highway Administration shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

''(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

''(A) IN GENERAL.—The Administrator of the Federal Highway Administration shall make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements. Each State may receive not more than $500,000 under this paragraph.

''(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph may be used—

''(i) to develop mix designs for crumb rubber modified asphalt pavements;

''(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

''(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.''; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and''.

(b) FUNDING.—Section 307(e)(13) of title 23, United States Code, is amended by inserting after the second sentence the following: ''Of the amounts authorized to be expended under this paragraph, $500,000 shall be expended in fiscal year 1996 to carry out section 1038(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) and $10,000,000 shall be expended in each of fiscal years 1996 and 1997 to carry out section 1038(d)(2) of the Act.''.

SEC. 107. LIMITATION ON ADVANCE CONSTRUCTION.

Section 115(d) of title 23, United States Code, is amended to read as follows:

''(d) REQUIREMENT OF INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may not approve an application under this section unless the project is included in the transportation improvement program of the State developed under section 135(f).''.

SEC. 108. PREVENTIVE MAINTENANCE.

Section 116 of title 23, United States Code, is amended by adding at the end the following:

''(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the life of a Federal-aid highway.''.

SEC. 109. ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES.

(a) IN GENERAL.—Section 122 of title 23, United States Code, is amended to read as follows:

''SEC. 122. PAYMENTS TO STATES FOR BOND AND OTHER DEBT INSTRUMENT FINANCING.

''(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State, the proceeds of which are used for an eligible Federal-aid project under this title.

''(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State, for—

''(1) interest payments under an eligible debt financing instrument;

''(2) the retirement of principal of an eligible debt financing instrument;

''(3) the cost of the issuance of an eligible debt financing instrument;

''(4) the cost of insurance for an eligible debt financing instrument; and

''(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

''(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State has complied with this title to the extent and in the manner that would be required if payment were to be made under section 121.

''(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the pro-rata basis of payment authorized in section 120.

''(e) STATUTORY CONSTRUCTION.—Notwithstanding any other law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (a) shall not—

''(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

''(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.''.

(b) DEFINITION OF CONSTRUCTION.—The first sentence of the undesignated paragraph defining ''construction'' of section 101(a) of title 23, United States Code, is amended by inserting ''bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122,'' after ''highway, including''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 122 and inserting the following:

''122. Payments to States for bond and other debt instrument financing.''.

SEC. 110. FEDERAL SHARE FOR HIGHWAYS, BRIDGES, AND TUNNELS.

Section 129(a) of title 23, United States Code, is amended by striking paragraph (5) and inserting the following:

''(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for an activity described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.''.

SEC. 111. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

''(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).''.

SEC. 112. STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS.

Section 133(e) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(3) PAYMENTS.—The'' and inserting the following:

''(3) PAYMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following:

''(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

''(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

''(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

''(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.''; and

(2) by adding at the end the following:

''(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

''(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop

categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

''(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Administrator of the Federal Highway Administration, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

''(i) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

''(ii) the regulations of the Advisory Council on Historic Preservation.''.

SEC. 113. NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS.

Section 144(l) of title 23, United States Code, is amended by adding at the end the following: ''Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.''.

SEC. 114. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) AREAS ELIGIBLE FOR FUNDS.—

(1) IN GENERAL.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(A) by inserting ''for areas in the State that were designated as nonattainment areas under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))'' after ''may obligate funds''; and

(B) in paragraph (1)(A)—

(i) by striking ''contribute to the'' and inserting the following: ''contribute to—

''(i) the''; and

(ii) by adding at the end the following:

''(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or''.

(2) APPORTIONMENT.—Section 104(b)(2) of title 23, United States Code, is amended—

(A) in the second sentence, by striking ''is a nonattainment area (as defined in the Clean Air Act) for ozone'' and inserting ''was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994''; and

(B) in the third sentence—

(i) by striking ''is also'' and inserting ''was also''; and

(ii) by inserting ''during any part of fiscal year 1994'' after ''monoxide''.

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

(b) REMOVAL OF CERTAIN FUNDING LIMITATIONS.—Section 149(b)(1)(A) of title 23, United States Code, is amended by striking ''(other than clauses (xii) and (xvi) of such section), that the project or program'' and inserting '', that the publicly sponsored project or program''.

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

(d) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.''.

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 154. National maximum speed limit for certain commercial motor vehicles'';

(2) in subsection (a)—

(A) by inserting '', with respect to motor vehicles'' before ''(1)''; and

(B) in paragraph (4), by striking ''motor vehicles using it'' and inserting ''vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it'';

(3) by striking subsection (b) and inserting the following:

''(b) MOTOR VEHICLE.—In this section, the term 'motor vehicle' has the meaning provided for 'commercial motor vehicle' in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.'';

(4) in the first sentence of subsection (e), by striking ''all vehicles'' and inserting ''all motor vehicles''; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

''154. National maximum speed limit for certain commercial motor vehicles.''.

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

''(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.''.

(3) Section 157(d) of title 23, United States Code, is amended by striking ''154(f) or''.

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.''.

SEC. 116. FEDERAL SHARE FOR BICYCLE TRANSPORTATION FACILITIES AND PEDESTRIAN WALKWAYS.

Section 217(f) of title 23, United States Code, is amended by striking ''80 percent'' and inserting ''determined in accordance with section 120(b)''.

SEC. 117. SUSPENSION OF MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) STATE ELECTION.—A State may, at the option of the State, elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.''; and

(2) in subsection (f)—

(A) by striking ''(f) ANNUAL REPORT.—Not'' and inserting the following:

''(f) REPORTS.—

''(1) ANNUAL REPORTS.—Not''; and

(B) by adding at the end the following:

''(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Secretary, in consultation with States, shall transmit to Congress a report on the management systems required under this section that makes recommendations as to whether, to what extent, and how the management systems should be implemented.''.

SEC. 118. INTELLIGENT TRANSPORTATION SYSTEMS.

(a) IMPROVED COLLABORATION IN INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.—Section 6054 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

''(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.''.

(b) TIME LIMIT FOR OBLIGATION OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

''(f) OBLIGATION OF FUNDS.—

''(1) IN GENERAL.—Funds made available pursuant to subsections (a) and (b) after the date of enactment of this subsection, and other funds made available after that date to carry out specific intelligent transportation systems projects, shall be obligated not later than the last day of the fiscal year following the fiscal year with respect to which the funds are made available.

''(2) REALLOCATION OF FUNDS.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other activity with respect to which funds may be made available under subsection (a) or (b).''.

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2048) is amended—

(A) in item 10, by striking ''(IVHS)'' and inserting ''(ITS)''; and

(B) in item 29, by striking ''intelligent/vehicle highway systems'' and inserting ''intelligent transportation systems''.

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2176) is amended by striking ''intelligent vehicle highway systems'' and inserting ''intelligent transportation systems''.

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

"PART B—INTELLIGENT TRANSPORTATION SYSTEMS";

(B) in section 6051, by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(C) by striking "intelligent vehicle-highway systems" each place it appears and inserting "intelligent transportation systems";

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking "intelligent vehicle-highway" and inserting "intelligent transportation systems"; and

(ii) in the subsection heading of subsection (b), by striking "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and inserting "INTELLIGENT TRANSPORTATION SYSTEMS";

(E) in the subsection heading of section 6056(a), by striking "IVHS" and inserting "ITS";

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking "IVHS" and inserting "ITS"; and

(G) in the paragraph heading of section 6059(1), by striking "IVHS" and inserting "ITS".

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking "Intelligent Vehicle-Highway Systems" each place it appears and inserting "Intelligent Transportation Systems"; and

(B) by striking "intelligent vehicle-highway system" and inserting "intelligent transportation system".

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking "INTELLIGENT VEHICLE-HIGHWAY" and inserting "INTELLIGENT TRANSPORTATION"; and

(B) by striking "intelligent vehicle-highway" each place it appears and inserting "intelligent transportation".

SEC. 119. DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED ACTIVITIES.

Section 323 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with an activity eligible for Federal assistance under this title. In the case of such an activity with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the activity by the State highway agency shall be credited against the State share.".

SEC. 120. METRIC CONVERSION OF TRAFFIC CONTROL SIGNS.

(a) Notwithstanding section 3(2) of the Metric Conversion Act of 1975 (15 U.S.C. 205b(2)) or any other law, no State shall be required to—

(1) erect any highway sign that establishes any speed limit, distance, or other measurement using the metric system; or

(2) modify any highway sign that establishes any speed limit, distance, or other measurement so that the sign uses the metric system.

(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State notifies the Secretary to the contrary: *Provided*, That a waiver granted by the Secretary will be in effect until September 30, 2000.

SEC. 121. IDENTIFICATION OF HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2032) is amended—

(1) by striking paragraph (5) and inserting the following:

"(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan.

"(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

"(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

"(II) I–581 to I–81 in the vicinity of Roanoke;

"(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

"(IV) United States Route 460 to the West Virginia State line.

"(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

"(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

"(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

"(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

"(I) in the case of I–73—

"(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

"(bb) State Route 68 to I–40;

"(cc) I–40 to United States Route 220 in Greensboro;

"(dd) United States Route 220 to United States Route 1 near Rockingham;

"(ee) United States Route 1 to the South Carolina State line; and

"(ff) South Carolina State line to Charleston, South Carolina; and

"(II) in the case of I–74—

"(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

"(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

"(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

"(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

"(ee) United States Route 220 to United States Route 74 near Rockingham;

"(ff) United States Route 74 to United States Route 76 near Whiteville;

"(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

"(hh) South Carolina State line to Charleston, South Carolina.

"(iv) Each route segment referred to in clause (i), (ii), or (iii) that is not a part of the Interstate System shall be designated as a route included in the Interstate System, at such time as the Secretary determines that the route segment—

"(I) meets Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

"(II) meets the criteria for designation pursuant to section 139 of title 23, United States Code, except that the determination shall be made without regard to whether the route segment is a logical addition or connection to the Interstate System.";

(2) in paragraph (18)—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and to the Lower Rio Grande Valley at the border between the United States and Mexico"; and

(3) by adding at the end the following:

"(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

"(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.

"(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

"(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.".

SEC. 122. REVISION OF AUTHORITY FOR INNOVATIVE PROJECT IN FLORIDA.

Item 196 of the table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2058) is amended—

(1) by striking "Orlando,"; and

(2) by striking "Land & right-of-way acquisition & guideway construction for magnetic limitation project" and inserting "1 or more regionally significant, intercity ground transportation projects".

SEC. 123. REVISION OF AUTHORITY FOR PRIORITY INTERMODAL PROJECT IN CALIFORNIA.

Item 31 of the table in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2062) is amended by striking "To improve ground access from Sepulveda Blvd. to Los Angeles, California" and inserting the following: "For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000".

SEC. 124. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) CONTRACT AUTHORITY.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following:

''(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this section shall be available for obligation in the manner as if the funds were apportioned under title 23, United States Code, except that the Federal share of any project under this section shall be determined in accordance with this section.

''(h) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be 50 percent.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(A) by striking subsection (c) and inserting the following:

''(c) STATE ELIGIBILITY.—A State shall be eligible to receive moneys under this part if—

''(1) the Governor of the State has designated the State agency responsible for administering allocations under this section;

''(2) the State proposes to obligate and ultimately obligates any allocations received in accordance with subsection (e); and

''(3) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists in the State.'';

(B) in subsection (d), by striking paragraph (3);

(C) in subsection (e)—

(i) in paragraphs (3)(A), (5)(B), and (8)(B), by striking ''(c)(2)(A) of this section'' and inserting ''(c)(3)''; and

(ii) in paragraph (5)(A)(i), by striking ''(g)(5)'' and inserting ''(i)(5)''; and

(D) in subsection (i) (as redesignated by subsection (a)(1)), by striking paragraph (1) and inserting the following:

''(1) ELIGIBLE STATE.—The term 'eligible State' means a State (as defined in section 101 of title 23, United States Code) that meets the requirements of subsection (c).''.

(2) Section 104 of title 23, United States Code, is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

''(h) NATIONAL RECREATIONAL TRAILS FUNDING.—The Secretary shall expend, from administrative funds deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.''.

SEC. 125. INTERMODAL FACILITY IN NEW YORK.

(a) IN GENERAL.—The Secretary of Transportation shall make grants to the National Railroad Passenger Corporation for—

(1) engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center; and

(2) necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section a total of $69,500,000 for fiscal years following fiscal year 1995, to remain available until expended.

SEC. 126. CLARIFICATION OF ELIGIBILITY.

The improvements to, or adjacent to, the main line of the National Railroad Passenger Corporation between milepost 190.23 at Central Falls, Rhode Island, and milepost 168.53 at Davisville, Rhode Island, that are necessary to support the rail movement of freight shall be eligible for funding under sections 103(e)(4), 104(b), and 144 of title 23, United States Code.

SEC. 127. BRISTOL, RHODE ISLAND, STREET MARKING.

Notwithstanding any other law, a red, white, and blue center line in the Main Street of Bristol, Rhode Island, shall be deemed to comply with the requirements of section 3B–1 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

SEC. 128. PUBLIC USE OF REST AREAS.

Notwithstanding section 111 of title 23, United States Code, or any project agreement under the section, the Secretary of Transportation shall permit the conversion of any safety rest area adjacent to Interstate Route 95 within the State of Rhode Island that was closed as of May 1, 1995, to use as a motor vehicle emissions testing facility. At the option of the State, vehicles shall be permitted to gain access to and from any such testing facility directly from Interstate Route 95.

SEC. 129. COLLECTION OF TOLLS TO FINANCE CERTAIN ENVIRONMENTAL PROJECTS IN FLORIDA.

Notwithstanding section 129(a) of title 23, United States Code, on request of the Governor of the State of Florida, the Secretary of Transportation shall modify the agreement entered into with the transportation department of the State and described in section 129(a)(3) of the title to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of an environmental project that is carried out under State law and approved by the Secretary of the Interior.

SEC. 130. HOURS OF SERVICE OF DRIVERS OF GROUND WATER WELL DRILLING RIGS.

(a) DEFINITIONS.—In this section:

(1) 8 CONSECUTIVE DAYS.—The term ''8 consecutive days'' means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term ''24-hour period'' means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term ''ground water well drilling rig'' means any vehicle, machine, tractor, trailer, semitrailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(b) GENERAL RULE.—In the case of a driver of a commercial motor vehicle subject to regulations prescribed by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, who is used primarily in the transportation and operation of a ground water well drilling rig, for the purpose of the regulations, any period of 8 consecutive days may end with the beginning of an off-duty period of 24 or more consecutive hours.

(c) REPORT.—The Secretary of Transportation shall monitor the commercial motor vehicle safety performance of drivers of ground water well drilling rigs. If the Secretary determines that public safety has been adversely affected by the general rule established by subsection (b), the Secretary shall report to Congress on the determination.

SEC. 131. RURAL ACCESS PROJECTS.

Item 111 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2042) is amended—

(1) by striking ''Parker County'' and inserting ''Parker and Tarrant Counties''; and

(2) by striking ''to four-lane'' and inserting ''in Tarrant County to freeway standards and in Parker County to a 4-lane''.

SEC. 132. INCLUSION OF HIGH PRIORITY CORRIDORS.

Section 1105(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2033) is amended by adding at the end the following: ''The Secretary of Transportation shall include High Priority Corridor 18 as identified in section 1105(c) of this Act, as amended, on the approved National Highway System after completion of the feasibility study by the States as provided by such Act.''.

SEC. 133. SENSE OF THE SENATE REGARDING THE FEDERAL–STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

(a) FINDINGS.—

(1) The designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the States.

(2) The Budget Resolution supported the re-evaluation of all Federal programs to determine which programs are more appropriately a responsibility of the States.

(3) Debate on the appropriate role of the Federal Government in transportation will occur in the re-authorization of ISTEA.

(b) SENSE OF SENATE.—Therefore, it is the sense of the Senate that the designation of the NHS does not assume the continuation or the elimination of the current Federal-State relationship nor preclude a re-evaluation of the Federal-State relationship in transportation.

SEC. 134. QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

''(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

''(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

''(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act: *Provided*

however, That if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services. Such subparagraphs shall not apply in that State.''.

SEC. 135. FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102–388; 106 Stat. 1565)) is amended—

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

(2) in paragraph (3), by striking ''section 143 of title 23'' and inserting ''a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title''.

SEC. 136. VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking ''except for those'' and inserting the following: ''except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for''.

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

''(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.''.

SEC. 137. REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item 1 of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2029) is amended by striking ''Construction of HOV Lanes on I–710'' and inserting ''Construction of automobile and truck separation lanes at the southern terminus of I–710''.

SEC. 138. APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.''.

SEC. 139. PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS.—Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027); and

(2) does not concern a federally owned highway.

SEC. 140. TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled ''An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa'', approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

SEC. 141. MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

SEC. 142. ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking ''a law described in subsection (a)(1) and'' each place it appears.

SEC. 143. CLARIFICATION OF ELIGIBILITY.

The improvements to the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

SEC. 144. TOLL ROADS, BRIDGES, TUNNELS, NONTOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

''§ 129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries''; and

(2) by revising paragraph 129(a)(7) to read as follows:

''(7) LOANS.—

''(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.''.

SEC. 145. TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2038).

SEC. 146. NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connecter to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

SEC. 147. INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting '', railroads,'' after ''highways)'';

(2) in paragraph (2)—

(A) by inserting '', all eligible activities under section 5311 of title 49, United States Code,'' before ''and publicly owned'';

(B) by inserting ''or rail passenger'' after ''intercity bus''; and

(C) by inserting before the period at the end the following: '', including terminals and facilities owned by the National Railroad Passenger Corporation''; and

(3) in paragraph (6), by inserting '', and for passenger rail services,'' after ''programs''.

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

SEC. 148. OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

''(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

''(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

''(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol.''; and

(2) in paragraph (2), by striking ''AFTER THE FIRST YEAR'' and inserting ''PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS''.

SEC. 149. CONTINGENT COMMITMENTS.

At the end of section 5309(g)(4) of title 49, United States Code, add the following new sentence: ''The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240.''.

SEC. 150. AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).''.

SEC. 151. REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: ''Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.''.

SEC. 152. FEASIBILITY STUDY OF EVACUATION ROUTES FOR LOUISIANA COASTAL AREAS.

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: ''A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.''.

SEC. 153. 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking ''and'' at the end; and

(2) by inserting ''and (iii) a safety overpass,'' after ''interchange,''.

SEC. 154. SAFETY BELT USE LAW REQUIREMENTS FOR NEW HAMPSHIRE AND MAINE.

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23, United States Code, upon certification by the Secretary of Transportation that the State has achieved—

(1) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(2) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

SEC. 155. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

SEC. 156. INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.''.

SEC. 157. MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal Government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights-of-way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) SUNSET.—This section shall cease to have any force or effect after December 1, 1995.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Capital Region Interstate Transportation Authority Act of 1995''.

SEC. 202. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate

Route 95 crossing, including the rehabilitation and reconstruction of the Bridge;

(9) the Woodrow Wilson Bridge Coordination Committee, established by the Federal Highway Administration and comprised of representatives of Federal, State, and local governments, is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable Federal laws;

(10) the transfer of ownership of the Bridge to a regional entity under the terms and conditions described in this title would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge;

(11) any material change to the Bridge must take into account the interests of nearby communities, the commuting public, Federal, State, and local government organizations, and other affected groups; and

(12) a commission of congressional, State, and local officials and transportation representatives has recommended to the Secretary of Transportation that the Bridge be transferred to an independent authority to be established by the Capital Region jurisdictions.

SEC. 203. PURPOSES.

The purposes of this title are—

(1) to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and

(2) to authorize the transfer of ownership of the Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

SEC. 204. DEFINITIONS.

In this title:

(1) AUTHORITY.—The term ''Authority'' means the National Capital Region Interstate Transportation Authority authorized by this title and by similar enactment by each of the Capital Region jurisdictions.

(2) AUTHORITY FACILITY.—The term ''Authority facility'' means—

(A) the Bridge (as in existence on the date of enactment of this Act);

(B) any southern Capital Beltway crossing of the Potomac River constructed in the vicinity of the Bridge after the date of enactment of this Act; or

(C) any building, improvement, addition, extension, replacement, appurtenance, land, interest in land, water right, air right, franchise, machinery, equipment, furnishing, landscaping, easement, utility, approach, roadway, or other facility necessary or desirable in connection with or incidental to a facility described in subparagraph (A) or (B).

(3) BOARD.—The term ''Board'' means the board of directors of the Authority established under section 206.

(4) BRIDGE.—The term ''Bridge'' means the Woodrow Wilson Memorial Bridge across the Potomac River.

(5) CAPITAL REGION JURISDICTION.—The term ''Capital Region jurisdiction'' means—

(A) the Commonwealth of Virginia;

(B) the State of Maryland; or

(C) the District of Columbia.

(6) INTERSTATE SYSTEM.—The term ''Interstate System'' means the Dwight D. Eisenhower National System of Interstate and Defense Highways designated under section 103(e) of title 23, United States Code.

(7) NATIONAL CAPITAL REGION.—The term ''National Capital Region'' means the region consisting of the metropolitan areas of—

(A)(i) the cities of Alexandria, Fairfax, and Falls Church, Virginia; and

(ii) the counties of Arlington and Fairfax, Virginia, and the political subdivisions of the Commonwealth of Virginia located in the counties;

(B) the counties of Montgomery and Prince Georges, Maryland, and the political subdivisions of the State of Maryland located in the counties; and

(C) the District of Columbia.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 205. ESTABLISHMENT OF AUTHORITY.

(a) CONSENT TO AGREEMENT.—Congress grants consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into an interstate agreement or compact to establish the National Capital Region Interstate Transportation Authority in accordance with this title.

(b) ESTABLISHMENT OF AUTHORITY.—

(1) IN GENERAL.—On execution of the interstate agreement or compact described in subsection (a), the Authority shall be considered to be established.

(2) GENERAL POWERS.—The Authority shall be a body corporate and politic, independent of all other bodies and jurisdictions, having the powers and jurisdiction described in this title and such additional powers as are conferred on the Authority by the Capital Region jurisdictions, to the extent that the additional powers are consistent with this title.

SEC. 206. GOVERNMENT OF AUTHORITY.

(a) IN GENERAL.—The Authority shall be governed in accordance with this section and with the terms of any interstate agreement or compact relating to the Authority that is consistent with this title.

(b) BOARD.—The Authority shall be governed by a board of directors consisting of 12 members appointed by the Capital Region jurisdictions and 1 member appointed by the Secretary.

(c) QUALIFICATIONS.—One member of the Board shall have an appropriate background in finance, construction lending, or infrastructure policy.

(d) CHAIRPERSON.—The chairperson of the Board shall be elected biennially by the members of the Board.

(e) SECRETARY AND TREASURER.—The Board may—

(1) biennially elect a secretary and a treasurer, or a secretary-treasurer, without regard to whether the individual is a member of the Board; and

(2) prescribe the powers and duties of the secretary and treasurer, or the secretary-treasurer.

(f) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Board shall serve for a 6-year term, and shall continue to serve until the successor of the member has been appointed in accordance with this subsection.

(2) INITIAL APPOINTMENTS.—

(A) BY CAPITAL REGION JURISDICTIONS.—Members initially appointed to the Board by a Capital Region jurisdiction shall be appointed for the following terms:

(i) 1 member shall be appointed for a 6-year term.

(ii) 1 member shall be appointed for a 4-year term.

(iii) 2 members shall each be appointed for a 2-year term.

(B) BY SECRETARY.—The member of the Board appointed by the Secretary shall be appointed for a 6-year term.

(3) FAILURE TO APPOINT.—The failure of a Capital Region jurisdiction to appoint 1 or more members of the Board, as provided in this subsection, shall not impair the establishment of the Authority if the condition of the establishment described in section 205(b)(1) has been met.

(4) VACANCIES.—Subject to paragraph (5), a person appointed to fill a vacancy on the Board shall serve for the unexpired term.

(5) REAPPOINTMENTS.—A member of the Board shall be eligible for reappointment for 1 additional term.

(6) PERSONAL LIABILITY OF MEMBERS.—A member of the Board, including any nonvoting member, shall not be personally liable for—

(A) any action taken in the capacity of the member as a member of the Board; or

(B) any note, bond, or other financial obligation of the Authority.

(7) QUORUM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out the business of the Authority, 7 members of the Board shall constitute a quorum.

(B) APPROVAL OF BOND ISSUES AND BUDGET.—Eight affirmative votes of the members of the Board shall be required to approve bond issues and the annual budget of the Authority.

(8) COMPENSATION.—A member of the Board shall serve without compensation and shall reside within a Capital Region jurisdiction.

(9) EXPENSES.—A member of the Board shall be entitled to reimbursement for the expenses of the member incurred in attending a meeting of the Board or while otherwise engaged in carrying out the duties of the Board.

SEC. 207. OWNERSHIP OF BRIDGE.

(a) CONVEYANCE BY SECRETARY.—

(1) IN GENERAL.—After the Capital Region jurisdictions enter into the agreement described in subsection (c), the Secretary shall convey all right, title, and interest of the Department of Transportation in and to the Bridge to the Authority. Except as provided in paragraph (2), upon conveyance by the Secretary, the Authority shall accept the right, title, and interest in and to the Bridge, and all duties and responsibilities associated with the Bridge.

(2) INTERIM RESPONSIBILITIES.—Until such time as a new crossing of the Potomac River described in section 208 is constructed and operational, the conveyance under paragraph (1) shall in no way—

(A) relieve the Capital Region jurisdictions of the sole and exclusive responsibility to maintain and operate the Bridge; or

(B) relieve the Secretary of the responsibility to rehabilitate the Bridge or to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other requirements applicable with respect to the Bridge.

(b) CONVEYANCE BY THE SECRETARY OF THE INTERIOR.—At the same time as the conveyance of the Bridge by the Secretary under subsection (a), the Secretary of the Interior shall transfer to the Authority all right, title, and interest of the Department of the Interior in and to such land under or adjacent to the Bridge as is necessary to carry out section 208. Upon conveyance by the Secretary of the Interior, the Authority shall accept the right, title, and interest in and to the land.

(c) AGREEMENT.—The agreement referred to in subsection (a) is an agreement among the Secretary, the Governors of the Commonwealth of Virginia and the State of Maryland, and the Mayor of the District of Columbia as to the Federal share of the cost of the activities carried out under section 208.

SEC. 208. CAPITAL IMPROVEMENTS AND CONSTRUCTION.

The Authority shall take such action as is necessary to address the need of the National Capital Region for an enhanced southern Capital Beltway crossing of the Potomac River that serves the traffic corridor of the

Bridge (as in existence on the date of enactment of this Act), in accordance with the recommendations in the final environmental impact statement prepared by the Secretary. The Authority shall have the sole responsibility for the ownership, construction, operation, and maintenance of a new crossing of the Potomac River.

SEC. 209. ADDITIONAL POWERS AND RESPONSIBILITIES OF AUTHORITY.

In addition to the powers and responsibilities of the Authority under the other provisions of this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, the Authority shall have all powers necessary and appropriate to carry out the duties of the Authority, including the power—

(1) to adopt and amend any bylaw that is necessary for the regulation of the affairs of the Authority and the conduct of the business of the Authority;

(2) to adopt and amend any regulation that is necessary to carry out the powers of the Authority;

(3) subject to section 207(a)(2), to plan, establish, finance, operate, develop, construct, enlarge, maintain, equip, or protect the Bridge or a new crossing of the Potomac River described in section 208;

(4) to employ, in the discretion of the Authority, a consulting engineer, attorney, accountant, construction or financial expert, superintendent, or manager, or such other employee or agent as is necessary, and to fix the compensation and benefits of the employee or agent, except that—

(A) an employee of the Authority shall not engage in an activity described in section 7116(b)(7) of title 5, United States Code, with respect to the Authority; and

(B) an employment agreement entered into by the Authority shall contain an explicit prohibition against an activity described in subparagraph (A) with respect to the Authority by an employee covered by the agreement;

(5) to—

(A) acquire personal and real property (including land lying under water and riparian rights), or any easement or other interest in real property, by purchase, lease, gift, transfer, or exchange; and

(B) exercise such powers of eminent domain in the Capital Region jurisdictions as are conferred on the Authority by the Capital Region jurisdictions, in the exercise of the powers and the performance of the duties of the Authority;

(6) to apply for and accept any property, material, service, payment, appropriation, grant, gift, loan, advance, or other fund that is transferred or made available to the Authority by the Federal Government or by any other public or private entity or individual;

(7) to borrow money on a short-term basis and issue notes of the Authority for the borrowing payable on such terms and conditions as the Board considers advisable, and to issue bonds in the discretion of the Authority for any purpose consistent with this title, which notes and bonds—

(A) shall not constitute a debt of the United States, a Capital Region jurisdiction, or any political subdivision of the United States or a Capital Region jurisdiction; and

(B) may be secured solely by the general revenues of the Authority, or solely by the income and revenues of the Bridge or a new crossing of the Potomac River described in section 208;

(8) to fix, revise, charge, and collect any reasonable toll or other charge;

(9) to enter into any contract or agreement necessary or appropriate to the performance of the duties of the Authority or the proper operation of the Bridge or a new crossing of the Potomac River described in section 208;

(10) to make any payment necessary to reimburse a local political subdivision having jurisdiction over an area where the Bridge or a new crossing of the Potomac River is situated for any extraordinary law enforcement cost incurred by the subdivision in connection with the Authority facility;

(11) to enter into partnerships or grant concessions between the public and private sectors for the purpose of—

(A) financing, constructing, maintaining, improving, or operating the Bridge or a new crossing of the Potomac River described in section 208; or

(B) fostering development of a new transportation technology;

(12) to obtain any necessary Federal authorization, permit, or approval for the construction, repair, maintenance, or operation of the Bridge or a new crossing of the Potomac River described in section 208;

(13) to adopt an official seal and alter the seal, as the Board considers appropriate;

(14) to appoint 1 or more advisory committees;

(15) to sue and be sued in the name of the Authority; and

(16) to carry out any activity necessary or appropriate to the exercise of the powers or performance of the duties of the Authority under this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, if the activity is coordinated and consistent with the transportation planning process implemented by the metropolitan planning organization for the Washington, District of Columbia, metropolitan area under section 134 of title 23, United States Code, and section 5303 of title 49, United States Code.

SEC. 210. FUNDING.

(a) SET-ASIDE.—Section 104 of title 23, United States Code (as amended by section 125(b)(2)(A)), is further amended—

(1) in the first sentence of subsection (b), by striking ''subsection (f) of this section'' and inserting ''subsections (f) and (i)'';

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting before subsection (j) the following:

''(i) WOODROW WILSON MEMORIAL BRIDGE.—Before making an apportionment of funds under subsection (b), the Secretary shall set aside $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for the planning, preliminary design, engineering, and acquisition of a right-of-way for, and construction of, a new crossing of the Potomac River.''.

(b) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any project funded under this section shall be 100 percent; and

(2) the funds made available under this section shall remain available until expended.

(c) STUDY.—Not later than May 31, 1997, the Secretary, in consultation with each of the Capital Region jurisdictions, shall prepare and submit to Congress a report identifying the necessary Federal share of the cost of the activities to be carried out under section 208.

(d) DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1002(e)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 104 note) is amended by inserting before the period at the end the following: ''and the National Capital Region Interstate Transportation Authority Act of 1995''.

(e) REMOVAL OF ISTEA AUTHORIZATION FOR BRIDGE REHABILITATION.—Section 1069 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009) is amended by striking subsection (i).

SEC. 211. AVAILABILITY OF PRIOR AUTHORIZATIONS.

In addition to the funds made available under section 210, any funds made available for the rehabilitation of the Bridge under sections 1069(i) and 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009 and 2028) (as in effect prior to the amendment made by section 210(e)) shall continue to be available after the conveyance of the Bridge to the Authority under section 207(a), in accordance with the terms under which the funds were made available under the Act.

TITLE III—FEDERAL HIGHWAY AND RAILROAD GRADE CROSSING SAFETY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Federal Highway and Railroad Grade Crossing Safety Act of 1995''.

SEC. 302. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC. 303. STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations, to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) DEADLINE.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. 304. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) GRADE-CROSSING VIOLATIONS.—

''(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

''(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

''(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

''(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.''.

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(18) GRADE-CROSSING REGULATIONS.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.''.

SEC. 305. SAFETY ENFORCEMENT.

(a) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) REPORT.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. 306. CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) STATEMENT OF POLICY.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) PARTNERSHIP AND OVERSIGHT.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provisions for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) CROSSING FREEZE.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

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

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

The motion to lay on the table was agreed to.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I now propound a unanimous consent request that Senator GRAMS, who has been waiting for several hours now, be permitted to put in his opening statement, Senator BOXER her opening statement, and that then we go to Senator SHELBY for the purposes of submitting his amendment on proportional liability that we have already agreed to vote on at 10:55. So I propound that as a unanimous consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. D'AMATO. I thank the Chair.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise in support of S. 240, the Private Securities Litigation Reform Act of 1995.

As we all know, the United States is facing a litigation crisis. Piles of new and often frivolous lawsuits are being filed every day in our Nation's courtrooms, bottling up our judicial system and crowding out those suits which have merit and demand justice.

Already, the Senate has addressed the problems in our product liability laws and debated the issue of medical malpractice reform.

But few areas of our tort system deserve and require as comprehensive a review as the field of securities litigation.

Let me briefly describe the problem. For years, a small number of attorneys have made it their life's work to bring class-action lawsuits against companies whose stock values—for one reason or another—have fallen.

These so-called strike suits are rarely filed with any evidence of fraud or wrongdoing—in fact, they are often filed simply with the knowledge that the value of a stock has dropped.

This is possible because of the implied right of action developed by the courts under rule 10(b)–5 of the Securities Act of 1934. Because Congress has failed to limit this right of action through statute, it is relatively simple for attorneys to file frivolous cases and harass defendants under these judge-made rules.

Even worse, these attorneys rarely serve any real injured class of investors. Instead, they use professional plaintiffs who buy nominal amounts of stock, simply to serve as the pawns of an expensive chess match.

Due to the costly array of litigation expenses, such as extensive discovery, defendants will often choose to settle cases, rather than bring them to a final judgment in court.

In addition, under joint and several liability, plaintiffs' attorneys can bring secondary defendants, such as accountants, directors, and others, into these cases and force them to settle as well.

These settlements are often too small to benefit the alleged class of injured investors. But they are not too small to make a healthy living for an attorney who is motivated solely by profit, not justice.

To call this the practice of law would be inaccurate. It is more appropriately called legal blackmail or extortion, and it is happening every day, at the expense of job providers, workers, and consumers.

S. 240 addresses this problem by placing some important limitations on the implied right of action in rule 10(b)–5.

By helping put the brakes on the attorneys' race to the courthouse, this legislation would make it easier for defendants to protect themselves from frivolous ''strike'' suits, encourage voluntary disclosure of information from issuers of stock to potential investors, and reduce the cost of raising capital which is so necessary for jobs creation.

It includes a number of important provisions, including tougher pleading requirements for securities fraud actions, mandatory sanctions for attorneys who file needless litigation, and restrictions on windfall recoveries for plaintiffs who profit from a rebound in the market after an alleged fraud.

I am also pleased that S. 240 reforms the rules governing secondary defendants. This measure establishes a two-tiered system which allows most parties to be held proportionately liable only for the percentage of damages attributable to their actions; in other words, it puts an end to the practice of ''deep pockets'' litigation.

Mr. President, this legislation is not a perfect bill. There are many of us who believe it should do more.

We could, for example, have a stronger safe harbor protection for forward-looking statements or a ''loser pays'' provisions similar to the bill passed by the House. Today, however, we cannot let the perfect be the envy of the good.

Likewise, there will be attempts made to weaken this bill—efforts which I urge my colleagues to reject. In particular, I hope this body will resist any attempt to extend the statute of limitations already found in law. If our purpose is to reduce frivolous litigation and protect consumers from higher prices, any such effort must be rejected.

There are some critics of the bill who suggest that this legislation is bad for the average American.

Well, Mr. President, tell that to the innocent defendant who's forced to settle for millions of dollars simply because of one crafty lawyer, tell it to the worker who was laid off because his employer had to pay attorneys' fees instead of his salary, tell it to the consumer who has to pay higher prices for everyday products simply because of the cost of frivolous litigation.

And most importantly, tell it to the hard-working, honest attorneys who watch the public image of their profession being stomped into the ground by a few quick change artists. They are the ones who suffer because of the abuses in our current system. They are the ones who need our help.

By voting for this legislation, we will take an important step forward in helping reduce the cost of frivolous litigation, litigation which robs job providers the opportunity to buy new equipment for plant safety, provide higher pay and better benefits for employees, and to create new jobs.

And that hurts average, hard-working, middle-class Americans—my kids and yours.

For their sake—in the name of justice—we must pass this important measure to fix our badly broken tort system. I, tonight, urge my colleagues to join me in this effort and to vote for S. 240.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I know it has been a very long and hard day for many of us. Some of us felt very strongly about Dr. Foster, and we had a tough day on that one. Some of us had our bases closed, and it has been awfully difficult sometimes to face disappointments like this.

But here we are, it is 9:20 and we have a bill before us that is very important. I want to speak to this bill and as I told the chairman, my friend, I will do it as quickly as I can, but I wanted to cover some of the important issues that we face.

I speak to this bill not only as a Senator from California but as a former stockbroker, a former stockbroker will understand the sacred responsibility of recommending investments to people who need those investments to be sound. I can tell you, in those days, if I invested in a stock for an elderly person, I literally worried a lot about them, and if things turned around, I was very quick to get on the phone and talk with them about it. I took this responsibility very seriously, and most stockbrokers do.

But there are those broker-dealers, investment advisers, and others who do not take their responsibilities as seriously as they should. So I think it is very important, in light of Orange County—and those were my constituents who were left holding the bag because there were some broker-dealers who were more than dishonest, unscrupulous, and they had done it before and they continued to do it. I want to make sure that investors are protected.

When the debate opened on S. 240, we heard a great deal of discussion by its proponents about companies who were being sued unfairly. No one, Mr. President, should be sued unfairly. The vast majority of businesses are decent, are good, and they do not deserve frivolous lawsuits. Those frivolous lawsuits should be stopped. I am ready to stop them. They do happen. But as my friend from Nevada, Senator BRYAN, said, let us not use the issue of frivolous lawsuits to take this legislation so far that it hurts legitimate plaintiffs, legitimate lawyers. We do not want to stop decent people in their tracks, innocent investors. We do not want them to be stuck or ruined. We do not want them, in some cases, frankly, to be financially destroyed because we are writing a law that perhaps goes too far.

Our colleague from Nevada showed us very clearly that there is no explosion of these investor lawsuits. Indeed, it is extraordinary. They have remained very level—the same number now as we saw 20 years ago. That does not mean they are all perfect lawsuits. Some of them are frivolous. But the fact is we have no explosion here, and that has been clearly stated by my friend from Nevada.

We need to approach this bill from our own experience. I want to say that this is a very complicated issue. I want to say to those who may be watching this debate, it may be complicated, but it could easily affect you. It is just like the S&L crisis, when the Congress acted to deregulate and walked away. It was a complicated bill. People did not follow it, and then they got burned. So we have to be very careful.

I have met the victims of Charles Keating. I talked about that with my friend from Nevada. I met the victims from the Orange County bankruptcy, and I say to them that I do not intend to forget them as we go through this bill. I want to try to make this bill better. I will support it and perhaps offer amendments to do that. I want to make sure investors are not shut out of the courtroom. That is not the American way. That is what motivates me.

I want to tell a little bit about this bill by way of some charts that I have. I want to show you what newspapers have been saying about this bill, S. 240. There are many people who take it to the floor and they have extolled this bill in its current form. They like it. Many of them have worked very hard on it and they are very close to it. I want you to see what some of the newspapers are saying about S. 240.

The Palm Beach Post of June 5, 1995:

> Congress has set out to help stop market con artists. Congress is creating legislation that would virtually strip the rights of defrauded investors—the bill installs heat shields around white collar crooks and brokers or accountants who aid and abet their scams. Investors who know the legislation do not like it.

This is Jane BRYANt Quinn from Newsweek. She is an advocate for investors, and she says:

> S. 240 makes it easier for corporations and stockbrokers to mislead investors. Class action suits against deceivers would be costly for small investors to file and incredibly difficult to win.

How about the Seattle Times, May 29, 1995, a month ago. They say this, and so many colleagues have embraced this, and some say it does not go far enough:

> This legislation has proceeded almost unnoticed because it is hideously complicated, and there may be a feeling it does not touch many lives. Wrong. Taxpayers have a vital stake in these changes. Longstanding protections are in jeopardy.

The Raleigh, NC, News and Observer:

> S. 240 is bad news for investors, private and public. It would tie victims in legal knots while immunizing white-collar crooks against having to pay for their misdeeds.

The Philadelphia Inquirer, in June 1995:

> A crook is a crook, and S. 240 would relax penalties for many stock crooks.

The St. Louis Post Dispatch, May 1995:

> Don't protect securities fraud.

The Contra Costa Times in my home State:

> Why would any Member of Congress vote to protect those involved in fraud at the expense of investors?

That is a reasonable question.

The Seattle Post Intelligencer:

> The legislation is opposed by the U.S. Conference of Mayors, the Government Finance Officers Association, the American Association of Retired Persons, and the North American Securities Administrators Association.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. Yes, I am happy to.

Mr. SARBANES. Not only is that a diverse group from which you just cited, the U.S. Conference of Mayors, the Government Finance Officers Association, the American Association of Retired Persons, and the North American Securities Administrators Association. Now, none of those groups has a vested interest, so to speak, in this conflict.

I understand that you have the trial lawyers who have a vested interest and the corporations who have a vested interest, and they are at one another,

and they are at sort of loggerheads over this thing. One makes one set of assertions and the other makes another set of assertions.

Everyone whom you cited there—as did the Senator from Nevada earlier in the debate, who listed additional organizations as well—all of whom are sort of outside the fray, they are coming and taking an outside, objective look at this thing. They have reached the judgment that this legislation is deficient. We are not getting outside groups reaching the judgment that the legislation, as is, is OK. The outside groups that say it is OK are players in the legislation. There are groups that say it is bad who are also players. But these are all organizations, in effect, that represent the public interest, the consumer. We have a whole list of consumer organizations as well. I think it is very important. I think Members really have to stop and think about this, because we are getting the same thing out of the editorial boards of the newspapers around the country. Overwhelmingly, those editorial boards are critical of this legislation.

They see it goes too far. Most write editorials and say there are some bad practices that need to be corrected, but this legislation goes well beyond that and overreaches.

I appreciate the Senator yielding. I think it is a very important point. None of those organizations have a vested interest in this conflict, unlike many other groups that do have such an interest.

Mrs. BOXER. I thank my colleague, the ranking member of the full committee, for his statements.

I would say what we are doing here is just showing what the one newspaper is quoted as saying. There is a list of many, many pages, and I will at some point in this debate go further into it.

My friend is so right. So many consumer groups oppose this: Consumer Federation of America, Consumers for Civil Justice, Consumers Union, the Fraternal Order of Police oppose this. Why? Because they are worried about their retirement. They do not want some scam artist to get away with it.

As this debate moves forward, we will go more and more into the groups who oppose this legislation.

I am going to ask for the next series of charts which show who are the main targets of investor fraud. We talk about the companies, and believe me, I want to help the good companies. I do not want to help the companies that defraud investors. I think we need to look at who the targets are.

This is an article that appeared in the New York Times in May of this year, a month ago. ''If the Hair is Gray, Con Artists See Green, the Elderly are Prime Targets.''

When we talk about changing security laws that protect investors, we need to step back and look at who the targets are, who are the ones most likely to get hurt if we weaken these laws too much.

Let me read a little bit:

> Betty Norman was no match for the telephone con men who emptied her pockets of more than $40,000.
>
> A plain-talking widow who runs a small motel in Michigan, a town of State prisons and apple orchards, Mrs. Norman, born and raised here, was taught to believe that people are essentially honest. So she trusted salespeople who picked up details about her life in seemingly casual telephone chats while pitching her pens, costume jewelry and other trinkets. After being swindled out of thousands of dollars, she lost even more to people promising to recover her original investments.

Now, this is what Mrs. Norman says:

> ''It makes you feel like taking your life, to think you you've been skinned,'' said Mrs. Norman, 68, who for months was too mortified to reveal it to her grown children. ''I've been struggling along. People here have lent me money and I'm trying to get it paid back.''

So, we are seeing that—whether it is selling goods to the elderly or selling them investments—clearly, the elderly are the prime targets.

Now, I want to show something that I think is extraordinary. It is really something that ought to go to the Smithsonian. It is actually one Charles Keating gave to his salespeople when they were trying to con innocent senior citizens. I know that every single Senator, from both parties, would be sick if they took a look at this.

You are now a trainee for Charles Keating, and they blow up this paper. Here is what it says. They want to get someone to write a check for $20,000 to Charles Keating's company, American Continental Corp., in care of Lincoln Savings & Loan. You remember Lincoln Savings & Loan, right?

Here is the training document for the salespeople. To show how cruel these people are, how awful they are, this is the name they put, the fictitious name: Edna Gert Snidlip, 1 Geriatric Way, Retiredville, California, account number. And they are trying to get this sample elderly person to write a check for $20,000. This is the way they think of senior citizens.

I will show what they said on another piece of paper that we have blown up, another document that shows what they handed out.

At the very end, number 13, and these are all the things they have to think about, ''Always remember, the weak, meek, and ignorant, are always good targets.''

Now, what we have to do as we look at S. 240 is make sure that it passes the Keating test. Can we get a crook like Charles Keating, if we weaken our securities laws too much?

What the Senator from Maryland, Senator SARBANES, is trying to do, and the Senator from Nevada is trying to do, and the Senator from Alabama, and this Senator, and I hope others, we are trying to fix S. 240, so we do not allow these charlatans, these crooks, these criminals, to target elderly people, to go after the weak, the meek, and the ignorant as targets, and get away with it.

Remember, the Senator from Nevada, who was a prosecutor, has said if S. 240 had been the law of the land, the people who were conned by Charles Keating would not have recovered what they have now recovered. It is about 40 to 60 percent of their losses.

Mr. SARBANES. Is that an instruction sheet they gave to their salesmen?

Mrs. BOXER. This is an instruction sheet they gave to their salespeople, exactly. This was in the period of discovery, when the attorneys went in to make their case against Charles Keating, they were able to come up with these documents which are on file at the court. We took them out.

I thought it shows the people of America that there are, sad to say, bad people, bad people who will try to get the elderly to make investments that are no good.

As the Senator knows, the Keating case, they led people to believe that their investments were, in fact, insured by the Federal Government, and people lost everything.

Mr. D'AMATO. Might I make an inquiry?

Mrs. BOXER. Certainly.

Mr. D'AMATO. I understand the horrible and the terrible things that were done to these people, the unscrupulous tactics that were used, but I ask what the relevance of insider trading is to the legislative proposal that we have before us.

This legislation does not deal with insider trading. Insider trading remains completely banned. There are other existing sections of the securities law which deals with insider trading. We do not make it any easier for insider trading to occur.

The fact is that this bill does not protect fraudulent conduct. It absolutely does not.

If you knowingly advertise falsely, you will be in violation of this bill, the safe harbor does not protect these false statements nor does it apply to ITO's or to small emerging companies. Also, the Securities Exchange Commission will still have the authority to bring any suit that it can bring today.

When we bring up the name of Charles Keating, and the terrible things that his salespeople were trained to do, we imply that this legislation will allow this kind of conduct. This legislation will not sanction that kind of conduct.

Mrs. BOXER. And I respond to my friend that we are changing the laws that protected the people who were conned by Charles Keating.

The fact of the matter is, Charles Keating ripped off the assets of the savings and loan, went bankrupt, and these poor people who were left with nothing had to go after other people. And in this bill you make it far more difficult. That is why Senator SHELBY is offering an amendment on this.

Mr. D'AMATO addressed the Chair.

Mrs. BOXER. The other point—I would like to just finish my point because my friend raised two issues. My

colleague is asking me about insider trading. The Senator is exactly right.

Mr. D'AMATO. Does the Senator know what fraud provisions we are changing? I would like to know. If she can point out to me a particular provision that will permit fraud, then I want to strike it. You say we have changed the law without identifying what section we have changed and allude to the practices of somebody we all agree was contemptible but his actions are not relevant. If you can point it out these provisions I would be delighted to review them.

The comment that we will make it possible for people to engage in fraudulent conduct and wipe away the protections that now exist, is not, in my opinion, square with the facts.

Mrs. BOXER. I would like to respond to my friend very clearly. I am making an opening statement tonight. I told my friend, I will be supporting amendments to make this bill better; amendments that will not leave people prey to people like Charles Keating. The Senator wants to know specifically? You can talk about the safe harbor. We are going to do that. I was happy to hear my friend from Connecticut saying maybe he will have a little change there. We welcome that. We are going to look at pleadings. And on insider trading, which we are going to talk about, the bill is silent about it. That is my problem.

Mr. D'AMATO. But this legislation does not deal with insider trading. Insider trading provisions are as vigilant and tough as ever. If there are constructive suggestions to make insider trading laws more effective, to appropriately protect defrauded people, we should certainly consider them. But this bill, as it does not address insider trading.

Mrs. BOXER. That is my point.

Mr. D'AMATO. To suggest that this bill will somehow make it easier for insider trading, because that is the implication when you cite Charles Keating and his misdeeds, that somehow we are going to make it easier for these people to prey on the elderly to is not true. I might just make one observation, this bill does, makes it possible for those who are truly aggrieved, not the entrepreneurial lawyer, to bring suit against violators and to receive their fair share of the settlement money.

It allows the institutional investors and the pension managers who are at risk, whose clients are at risk, to have the opportunity to manage a lawsuit, instead of giving this control to lawyers who have no concern for the defrauded investors. These lawyers do not give two hoots and a holler about the stockholders, and walk off with millions of dollars in settlement fees when the stockholders get a penny or 2 pennies per share. I suggest to the Senator that this bill helps pensioners, who hold $4.5 trillion in securities, by giving them the authority to choose the lawyers who control the suits. It gives them the ability to agree to a settlement as opposed to a charlatan, who owns 10 shares of stock and now is employed by lawyers.

That is what we tried to do with this legislation. I point this out because as I listen to my colleague's statement it sounds to me like this legislation will open a door for the Charles Keatings, this is just not accurate.

Mrs. BOXER. If I could just reclaim my time—and I will yield in a moment—I really need to say to my friend from New York: He may not agree with me, but to stand there and say that it —and my friend is a good debater—it is unequivocal that pensioners are better off—you should see the people who oppose your bill.

It seems to me—

Mr. D'AMATO. I know the people who oppose the bill.

Mrs. BOXER. Let me read the list: American Association of Community Colleges, American Association of Retired Persons, American Council on Education, American Federation of State, County and Municipal Employees, the Association of the Bar of the City of New York, the Association of Community College Trustees, the Association of Governing Boards of Universities and Colleges. It goes on. The Consumer Federation of America. Et cetera, et cetera.

I just read before—the Senator was not on the floor—some incredible, incredible editorials that have been written across this Nation by people who have no vested interest at all.

How about the Investors Rights Association of America? How about the Municipal Treasurers Association of the United States and Canada?

My friend has to, I hope, leave a little bit of room for dissension here. I know the bill was voted out overwhelmingly. But in the course of this debate I am going to be supporting amendments and perhaps offering some that are going to improve this bill. Because I do not agree with my friend. I do not agree with my friend that investors are better protected. I will be happy to yield to my friend from Maryland who sought to engage in a colloquy.

Mr. SARBANES. I would say to the distinguished Senator from New York, on the morning of the markup of this bill in the committee, the Chairman of the Securities and Exchange Commission wrote to us and stressed that the substitute committee print failed to adhere to his belief that a safe harbor should never protect fraudulent statements. This is what he said:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds.

That is not me talking. That is me quoting the Chairman of the Securities and Exchange Commission. He expressing very deep concern about the safe harbor provision in this legislation. So there is a very direct answer to the Senator from New York.

Second, we offered in the committee an aiding-and-abettingamendment. Earlier in the debate the distinguished Senator from Nevada pointed out about half of the recovery in the Keating case that helped these elderly citizens who had been swindled to get at least some of their money back, about half of the money they got back was because they were able to move against aiders and abettors.

There is no aider and abettor provision in this legislation for private litigants—which is, of course, how they were able to proceed in order to get their money back. And later there will be an amendment offered to provide aider and abettor liability in private actions.

So there again, unless we get that provision in, the ability that people who have been swindled in the Keating matter had to recover at least some of their losses would otherwise not be available to them.

So I say to my friend from California, there are two very clear examples to support the proposition she was just arguing.

I thank the Senator for yielding.

Mr. DODD. May I make a comment?

Mrs. BOXER. Without losing my right to the floor, and briefly, I yield to my friend.

Mr. DODD. I thank my colleague from California.

Mr. President, we are dealing here with apples and oranges. Talking about the Keating case has the desired effect because people recall what happened to innocent investors. But under the Keating situation we were talking about a failure of the bank regulatory system. Here we are talking about securities laws, two entirely different areas of the law.

What Mr. Keating and his cohorts were charged with was not violation of fraud and forward-looking statements, they lied to them about present facts. That is a vastly different situation. No safe harbor provisions were necessary in the Keating case, because he told those people, in these absolutely ridiculous and outrageous statements and instructions, that ''your money is being guaranteed. You are protected.'' It was not forward looking, he was lying about the present situation.

What the safe harbor provisions deal with are forward-looking statements, entirely different fact situations than existed in the Keating case.

I want to go into that at some length and I will later on, on this, but that is a very different fact situation than what we are talking about here.

Last, I just make this one point.

One of the major provisions of S. 240 has to deal with the requirement that we have the auditors reach out. Look, this is a provision that was added by Congressman WYDEN on the House side

who for years had 30 hearings on this provision which we have incorporated in this bill. Had that provision, by the way—one provision of this bill that does apply to Keating—had the auditors been required to seek out the fraud which does not exist on the books, that is the one area, I would argue, in S. 240 that might have made a difference in the Keating case.

What we have done with this bill is add a new requirement that auditors must do that. That would have assisted in the prosecution of Mr. Keating. That is a part of this bill. But forward-looking statements and lying about present facts are very different, and safe harbor would not have applied.

I thank my colleague for yielding.

Mrs. BOXER. I am happy to yield.

I say it is my understanding—and we are going to debate this—that it is not as clear as the Senator made it. We are going to bring that out as we move forward in this debate.

My friend from New York says insider trading is not in this bill; exactly my point. I would like to see us connect insider trading to these forward-looking statements. And I want to explain what I am talking about. We know insider trading. ''It's back, but with a new cast of characters.'' That is Business Week. That is December 1994.

I want to quote from a book written by Gene Marcial, ''The Secrets of Wall Street'':

> Don't kid yourselves: Very little has changed on Wall Street. Half a dozen years after the scandals of the 1980's, when any number of Street veterans were charged with violations of securities laws and several high-profile insiders were marched off to jail, insider trading and market manipulation—in cases 100 percent illegal—are still the most zealously desired play in the financial world. It's almost the only way to make the truly big bucks. All the market savvy in the world will come up short if you're playing against other investors who have market savvy plus inside information: Sorry, but that is the way the game is played.

How does that fit into this bill? What this bill does not address is forward-looking statements made in combination with insider trading.

Let me show you what I mean. Here is a forward-looking statement. Crazy Eddie. Some of you may remember a business run by a crook. Here comes the forward-looking statement.

> We are confident that our market penetration can grow appreciably . . .
>
> Glowing evidence of consumer acceptance of the Crazy Eddie ''Name'' augurs well for continuing growth outside of New York . . .

All during the time of this forward-looking statement, Crazy Eddie and his friends are unloading the stock, and they are unloading it at a high point. And after awhile, just a little bit later, you see this forward-looking statement was fraudulent and the top officer flees the country with millions of dollars, and the CEO is convicted of fraud.

So my point, I say to my friends—and what I tried to do in the committee, but we could not get agreement at that time, I am hoping we can get an agreement—is to make a point that, if you have a forward-looking statement in connection with insider trades, in other words, you can show—because, by the way, the insider trades are definitely recorded with the SEC, fortunately; some have 40 days to do it; I would like to make it 5 business days—if you can show that there is a forward-looking statement in connection with an insider trade, that you meet the heightened Keating requirement and you cannot take advantage of the safe harbor. My understanding is that if we made that change, it would be very helpful to this bill.

Mr. DODD. Will my colleague yield?

Mrs. BOXER. Sure.

Mr. DODD. As I see the fact situation here, in the Crazy Eddie case, these are knowingly false statements that were made. The provisions of S. 240 are fine. My point is that the insider trading laws are on the books. Frankly, if you have some new ideas on insider trading—we do not cover cattle rustling in this bill either. It does not mean it may not be important.

Mrs. BOXER. May not be important?

Mr. DODD. My point is you have very good laws today. We wrote some laws on insider trading which I dealt with in our committee a few years ago. But the implication here is somehow that Crazy Eddie would have gone scot-free if S. 240 were the law of the land.

Mrs. BOXER. No.

Mr. DODD. The Senator is not suggesting that, is she?

Mrs. BOXER. No. I would like to explain it before my friend gets too agitated. Let me explain it to my friend.

What I am suggesting—and I tried to explain it to my friends in the committee, but no one was interested in talking about it. I am trying to explain it now. The Senator is right. He made clearly false statements. But he might get away with it under the new safe harbor because it is a more difficult standard to meet. What we are saying is that, if you can show, going into the case, unequivocally that in connection and conjunction with a false statement, a forward-looking statement, there is insider trading, you do not have to meet the requirements of the new safe harbor, and you do not have to meet the pleadings requirement because what we are really saying is here ipso facto, if you are unloading a stock the day after you make a phony statement, that should meet the heightened requirement.

Mr. DODD. Is there anything that you believe—we now know in this case there were knowingly false statements that were made. Is there anything in S. 240 that would in any way make it possible for a Crazy Eddie to have gone scot-free?

Mrs. BOXER. Yes.

Mr. DODD. Why?

Mrs. BOXER. Because the safe harbor is quite different the way it is written in S. 240, and it would be much more difficult for investors to move against this particular company.

Mr. DODD. S. 240 says knowingly false statements.

Mrs. BOXER. I know. But it is a much higher level. You have to know the intent and all the rest.

All we are saying is in cases of insider trading—I hope my friends can go along with this because I think it is good law; that is, ipso facto, if you can show that there is insider trading in connection with a forward-looking statement, that you meet the new safe harbor and the pleading requirements. That is all we are suggesting.

We will be offering that amendment. I hope we can have some support. I think it makes a lot of sense.

I want to say something about the laws that deal with insider trading. I hope my friends can help me on this because I think we all want to go after the bad people. I know we do.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. Yes.

Mr. SARBANES. I say to the Senator from Connecticut, I cannot give a definitive answer to his question because there has not been a court interpretation of the standard that you had put in this bill, the safe harbor. But it is clear that under this standard, that Crazy Eddie was held to a standard that was not as stringent as the standard you have written into this legislation. That is clear. There is no argument about that. The standard by which Crazy Eddie was held under the existing law was a less stringent standard than the standard the Senator has written into this bill, because his standard—he says it is knowingly made with the expectation, purpose, and actual intent of misleading investors, and, of course, the Chairman of the SEC indicated he was fearful that this would allow willful fraud and still enjoy the benefit of safe harbor protection.

The other thing, I say to my friend, because I wanted to make this point earlier, is that I do think that the insider trading issue is more related to this bill by far than cattle rustling, if I may state that to my colleague, because, as I understand it, his effort was to counter my good friend from California to say, ''Well, you know, what has insider trading got to do with this bill? What does cattle rustling have to do with this bill?'' I think there is a difference between insider trading as it relates to this kind of legislation and cattle rustling.

Mr. DODD. I think my colleague from Maryland fully understood the point I was making on this. Yes, there is a different standard we are applying here. But the implication of using Crazy Eddie as an example I think is wrong.

But, second, what we are trying to do here is to minimize the kind of frivolous litigation where some people have a position that there should be no safe harbor, that we should do away with safe harbor altogether. I disagree with that. I think you can make a case for that.

But the idea of arguing, on the one hand, that we ought to have a safe harbor, and, second, making it so transparent that anyone can bring a lawsuit based on any kind of forward-looking statement is going against the trend of the balance we are trying to strike here where you have companies withholding information, pulling back, fearful that anything they say, no matter how well intended, becomes the automatic subject of a litigation when stocks fluctuate.

So we are trying to strike that balance, if I might just say to my colleague from Maryland.

Mr. SARBANES. If I could bring my dear friend back into the parameters, no one that I know of out here has argued that there should be no safe harbor whatever, which is the statement the Senator just made.

Mr. DODD. I said some may. I do not know.

Mr. SARBANES. It is a red herring. It is a diversionary thing.

Mr. DODD. Crazy Eddie is a red herring.

Mr. SARBANES. We are trying to get at what is a proper approach on the safe harbor issue. Now, it is a complicated issue. The Senator himself said that earlier in the day, a very complicated issue. But the potential for harm and damage, if you do not get it right, is enormous.

Mr. DODD. On both sides.

Mr. SARBANES. Is enormous.

Mr. DODD. Will my colleague agree, on both sides?

Mr. SARBANES. Not quite. Because until 1979 the SEC would not even permit forward-looking statements and yet our markets did very well. They grew. People prospered. Investments were made. The SEC would not even allow a forward-looking statement because they were so worried about what might happen to the investors.

Then people came in and made the argument, well, you know, this is difficult; we ought to be able to make some projection. And they began to try to accommodate that, which is what they have been trying to do. So we have been trying to make some changes. But you have to get it right. And when the chairman of the SEC comes in with a letter when he came to the committee, it ought to give you pause. You ought to pause. You ought to stop and think about this thing.

We ought not to have to enact something, then have devastation happen to investors and then come back and try to get it right, I say to my friend.

Mr. DODD. If my colleague will yield on that, we are already seeing—the reason the bill exists at all is because of the kind of devastation that can occur here. And so we are trying to strike that balance here.

Mr. SARBANES. That is right. And we have to strike the balance in the right place. That is all I am saying to my distinguished friend.

Mrs. BOXER. If I may reclaim my time at this point, I have enjoyed the give and take but I am bringing it back to real people. And my friends can talk all they want about safe harbor and all that. Let me tell you what I am talking about.

I used to be a stockbroker, I say to my friend, and I took that job very seriously. And I had a lot of widows and they came into me and, God, I worried. I am not concerned about the good people that my friend from Connecticut talks about. I want to help them. I want to protect them from frivolous lawsuits. I wish to also, however, say while I am doing that I do not want to hurt the average investor, and they can tell you from today until tomorrow it has nothing to do with the Keating case. Fine, they can say it all they want. But I will prove it as we go through this debate. But I wish to take you back to what happened to real people. This is just one case. There are many. I will show you another article behind here.

''Regulatory Alarms Ring on Wall Street'' New York Times, Friday June 9, 1995:

> With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

The point I am trying to make, my friends, yes, I want to have a safe harbor. I voted for the safe harbor that was in the Dodd-Domenici bill. And my friend from Connecticut said, well, we have moved past that. We can do better.

I think what was in the Dodd-Domenici bill made sense to give this to the SEC and let them develop a safe harbor. They know more than any of us.

Mr. DODD. Will my colleague yield on this one?

Mrs. BOXER. Yes.

Mr. DODD. The Senator is absolutely correct. I asked a year and a half ago. A year and a half ago I said to the SEC, in response to the letter by the chairman, a year and a half ago I said, ''Look, let's let you do it. Would you get some answers back.''

Month after month we inquired: What are you going to do on this? We would like to know. A year and a half went by and the SEC basically, because they wanted no change whatsoever, refused to provide any response. I say that to my colleague in frustration. We have had this happen with other agencies. They were not interested in doing this at all, despite their claims to the contrary. That is why we put the provision in here. Frankly, I would have preferred that they would have done it. But, frankly, after a year and a half, the patience of a Senator runs out when an agency refuses to respond.

Mrs. BOXER. I say to my friend, I know of his good faith and his good will and his good patience, but you know what? I think it is dangerous: Well, we tried and they did not do it, so we are going to write this our way.

I was in the House when we started the whole mess with the S&L's. Everyone thought: We can handle it; we know what is best; we will regulate them. Great. We do not need the agency to tell us how to do it. We are going to legislate.

I say to my friend from Connecticut, whom I admire—and we are friends, and we agree on 98 percent of the things around here—on this particular case, I hope he can get some more patience because I am a little concerned about the direction, and it is not just me. It is list after list of consumer groups and senior groups and securities administrators. They have no ax to grind. They are scared for the investors.

We do not want to go too far. We should find that balance. We should crack down on frivolous lawsuits, but let us be careful.

The point I am making with this, as my friend from Maryland pointed out, there is a tougher standard now. That is the whole point of the bill. Let us not play games with it. It is a tougher standard to meet, on purpose. The Senator himself has said, others have said we are worried about these suits against good, decent people and we are raising the bar; we are making it tougher.

What I am suggesting is if in connection with a forward-looking statement there is insider trading and it is clear and convincing and everyone knows it because they have to file it, then that should meet the standard right away, and the case moves over.

That is all I am saying. I hope I can work with my friend from Connecticut. I think when he looks at it he is going to think this is good. He does not want to protect people who make these statements; they are false; they dump their stock.

You know what happened? All the people in here that bought it on the basis of this lost so much. And I think there are ways we can work together to strengthen this bill so that when we have this connection—by the way, it happens many, many times with this insider trading, with these false statements, and the public gets it in the neck. And now they have to meet a higher standard.

And my friend from New York, I do not agree with him on this business about choosing the attorney. Now, in this bill we say the richest person, the person with the most invested gets to pick the attorney.

Mr. D'AMATO. If I might I ask, does the Senator mean to tell me that, for example, the pension manager of the city of New York, a $20-some-odd billion fund, should not be given greater latitude given the magnitude of the investment they manage than a professional plaintiff who buys 10 shares of stock and who is retained basically by a lawyer who rushes to file a suit? You would not want to give to the pension

managers the ability to have a greater say in who is selected when half of the dollars lost are invested by pension funds?

I would say I would rather have that any time. So when you say who is going to pick the lawyer, I would rather have people who have a real stake, who really invested billions of dollars, who really have something at risk, pick the lawyer. Than entrepenurial lawyers who simply watch for the stock to move 5 points one way or the other way. The Senator feels one way, I feel the public needs to be protected, and the way to protect the stockholders, the little people is to give them a say. They do not get a say now. They absolutely do not. What is going on now is a travesty.

Mrs. BOXER. Well, I assume that was a question, and so I will attempt to answer it this way. I say to my friend, we have a disagreement, and so does the SEC. They do not agree. They want to work on this provision. Just to say because someone has the most money, that is the end of it, they get to pick the lawyer, I think is a problem.

If you look at the Keating case, by the way, it is very interesting because in some of these cases, as the SEC pointed out in their recent communication, it may well be that the largest stockholder is somehow in cahoots with the fraudulent individual.

Now, I would rather give—

Mr. D'AMATO. Are you really suggesting—

Mrs. BOXER. May I finish my point, I say to my friend? I so admire my friend's tenacity, but let me finish my point and then I will be so happy to yield. Two people from Brooklyn, and I know it is hard. Two people from Brooklyn, I know it is hard. I want to yield to my friend.

Mr. D'AMATO. You do not have to.

Mrs. BOXER. I would like to remember my point, which is that under the current law, the judge gets to make the decision based on who is the most competent lawyer. I would assume judges are not dumb. They know if there is a phony plaintiff. I think that is another area on which we can perhaps compromise that the SEC has found problems with.

My colleagues will be glad to know that I am reaching the end of my remarks tonight. I know my chairman is absolutely thrilled with that, but I want to point out that I was yielding to many of my colleagues throughout this time. I wanted to do that. I think we have some legitimate differences.

Look, I only have one goal here. This is a tough issue for me. I represent so many wonderful companies who are complaining about this. I want to resolve this in the right way. I represent so many investors that got bilked.

Why do I represent all these people? Because I come from the largest State. I have 32 million people. I have thousands and thousands of investors, thousands of companies, and I want to be able to support a bill that strikes the balance that my friend from Connecticut talked about.

I think this bill, in its current form, does not do that. Now, I am not the only one to say that. Respected people in this Senate have said it tonight, people like DICK BRYAN, people like PAUL SARBANES. These are not people who do not know their facts. These are fair people.

We have a list of people who look after consumers, who look after investors who are begging us to fix this bill. I want to make sure that when this process ends, we have adopted some amendment, we have made sure that we do not have unintended consequences. We certainly had them in the S&L debacle. Not one of us ever dreamed we would have the problems we had when we deregulated.

Please, please view my comments tonight in the spirit in which they are offered. I want to be able to support a bill that does the right thing, but let us heed what Arthur Levitt and the SEC is saying in regard to the safe harbor, in regard to joint and several, in regard to the statute of limitations, in regard to the provisions regarding selecting an attorney. These are complicated matters, but the bottom line for me is making sure we protect the investors and that we protect the good business people, and if we do the wrong thing, we could be very, very sorry.

So let us proceed with caution, with comity. I hope we can improve this bill, and I look forward to working with my colleagues on the amendments that will be offered.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I will be brief considering the late hour.

I cannot let go unchallenged the statement that would imply that somehow this legislation will open up the door for people like Charles Keating to do the kinds of things that he did. This legislation does not deal with the criminal law or criminal conduct.

This bill does deal with the civil suits which are being brought and stating that there has to be a showing of intent to cause harm when making forward statements. These forward statements are defined in a very limited fashion, they include only projections. In order for a statement to be a projection, the company must state that it is a projection and warn investors that these projections may not come true.

If we want companies to be able to make these projections, and most people agree that it is in the consumers interest that they make them, then you have to give them this protection against frivolous suits. The question of who should represent the people, is not, in my opinion, a question of rich investors trampling the concerns of small investors. We are trying to give pension funds which operate on behalf of millions of people, many of whom are in the public sector, more control over their suits. We want to address more investors' concerns, not fewer. That is what we are attempting to do with this legislation.

Fraudulent conduct is not protected by the safe harbor section in this bill. This bill specifically excludes from protection any statements made with the expectation, purpose, and intent of misleading investors. If you are trying to mislead your investors you do not get protection. It is designed to protect honest companies from abusive suits.

There will be amendments to attempt to improve on the language of the bill. We will have exhaustive debate on all the issues on which my colleagues have concern and we will have votes on those amendments.

I just do not think it is fair to bring up the cases of Charles Keating or Crazy Eddie in which criminal violations were committed and which have absolutely no relation to the provisions in this legislation. One could easily assume when they hear the names of these outstandingly monstrous cases that are indelibly imprinted on so many people that somehow we are going to open the door to these kinds of actions. That is just not fair, and it is not an accurate representation of what we are attempting to do here. Although I certainly believe that reasonable people can disagree, as is their right, but I do not believe these analogies are correct or fair, with respect to this legislation.

Finally, I will conclude by saying that I did not sponsor this legislation, because I thought that the initial provisions of the legislation would have precluded and made it impossible for many people who are truly wronged to bring a suit. It was only after we were able to craft a compromise and some of the most onerous provisions, both of the original legislation and of the draft, were dropped, did I sponsor this bill.

For example, along the way, there was thought that an intentional misstatement would be protected in the safe harbor if a person did not rely upon it, which meant that somebody could actually deliberately distort the facts and could not be sued unless the person who brought the suit actually read that statement.

I could not support that, and I insisted that provision in the draft be dropped. We now have a provision which says only that there has to be an intentional misstatement.

It is in that spirit that we crafted an agreement. I might point to the House bill which has loser pays provision. We do not have a provision like that, but, yes, we do have a provision that says the courts shall ascertain, upon a dismissal of a suit, whether or not there has been an abuse, because too many of my colleagues in the law have brought these suits because it is an easy thing to get a company to settle. And that is not what the judicial system should be about, to wring out settlements from

people because they have wealth or because they cannot stand the litigation that might hurt them for 2 or 3 years; litigation that is meritless, or will keep them from doing business or obtaining the necessary financing. That is simply wrong. So, yes, we have sought to change that.

Do we seek to change that to disadvantage people? No, but to make the system operate on the basis that it should, to protect the truly aggrieved, to give them the right to sue, and to give the people who really lose the ability to decide who is going to represent them. A lawyer who finds his plaintiffs by pressing a button on a computer and calling up his list of investors with 10 shares in any particular company should not speak for the class of defrauded investors. That is wrong and is making a mockery of the system. That is why people are angry. The business community is absolutely right when they say we need fundamental change.

As I have said, I initially had great reservations about this legislation. My friend Senator DODD knows that, as does Senator DOMENICI. I studied this legislation and became convinced that many of the original reforms were necessary, while others, I felt went too far. I mention this to explain why I have not been a cosponsor—because I wanted to achieve a balance. When you have balance, there are parties on both sides who are not happy because, unfortunately, they all want their side to be more balanced. Some want loser pays. Some want a larger safe harbor; they would like companies to have no responsibility and no ability for anyone to sue them. Well, that is wrong. Of course on the other side, some of the lawyers want to be able to bring suit on anything that moves and some things that do not. They do not want to have accountability. The judges do not want to have to finding. They are overburdened and overworked, sometimes they have a year or 2-year backlog of cases. Here is Congress telling them they have made those findings, that they are in the public interest and the public has to be served. We are suffering in this country as a result of these frivolous lawsuits.

So one way for us to find the balance is ask the Judges only to look at cases which are dismissed, to find out whether or not sanctions should be brought. We hope that will help deter frivolous suits. Maybe after one or two sanctions are imposed we will have sent a message to those who are abusing the system.

Mr. President, I hope that we can proceed on this tomorrow. As I understand it, Senator SHELBY will lay down the first amendment. We will come into session at 9 o'clock. We will move to this bill at 9:30, when Senator SHELBY will offer his amendment dealing with proportionate liability, and I hope to hear debate from both sides. We will vote at 10:55.

If there is nothing further——

Mr. SARBANES. Mr. President, I will be very quick. I think we have had a good opening debate. I very strongly commend to my colleagues the very thoughtful and perceptive statements that were made by Senator BRYAN and Senator BOXER. I hope Members will review those very carefully.

We have to focus this debate on what the real issues are that divide us. There are provisions in this legislation—I was listening to the chairman of the committee talking just now, and he mentioned a number of provisions that we are not contesting. We accept those and think they are designed to deal with some abuses that have been taking place. But we do want to get the focus on other provisions where we think a proper balance has not been struck, where we think investors will be jeopardized, and where we think immunity is being provided to potential wrongdoers that ought not to be provided to them.

This is a very complicated question, there is no doubt about it. My good friend from New York, the chairman now, got very excited about the appointment of the lead plaintiff in a class action. Well, let me read you what the SEC said about that, and it is not all black and white, I admit that. Here is what they said:

> One provision of section 102 requires a court generally to appoint as lead plaintiff the class member that has the largest financial interest in the case. While this approach has merit, it may create additional litigation concerning the qualification of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members.

Now, I am not pretending this is simple. There is the problem. The SEC has stated this, and we need to think about it and address it. We may be making a mistake. I am sort of puzzled a bit by the absolute certainty of the people on the other side of this. I think this is complicated. I am not absolutely certain that the position I am advocating anticipates all of the problems. But, clearly, outside observers, in many respects, are far more knowledgeable than we are—the State securities regulators, the chairman of the SEC, and the finance officer people have all come in here expressing a lot of misgivings. One group said, ''We think you need these amendments. If you get these amendments in, we will take a different view of the bill. Without these amendments, we oppose the bill.'' They, in effect, are saying they recognize that there are other aspects or features of the bill that are acceptable or desirable.

As I said earlier, parts of this bill are desirable; parts of it are not desirable. We need to address, in my judgment, the undesirable parts. If we can do that, I think we can end up strengthening the bill, changing its thrust, achieving a better balance, and eliminating, hopefully, the differences between us.

As the very able Senator from California pointed out, that is the quest that she is on now, as we come to address this legislation.

So, again, I strongly commend to my colleagues the opening statement of Senator BRYAN and the opening statement of Senator BOXER. I say to them that this is a complicated issue. They need to consider it very carefully, because we will have to live with the consequences of this thing. As one commentator observed, ''The pendulum had swung too far toward the lawyers, and now it is swinging too far the other way. Unfortunately, some major investor frauds may have to take place before it again moves back toward the center.''

I want to get it to the center before we send it out of here, so the major investor frauds will never happen. I do not want a situation where we send it out of here, then the major investor frauds happen, and everybody comes back and says, oh, my goodness, we overreached. Let us correct it now and avoid it. Get the pendulum, as this says, in the center to begin with.

I thank the Chair.

Mr. DODD. Mr. President, very briefly, I do not debate what my colleague has said. Some of us have been at this for 4 or 5 years trying to strike a balance.

As I pointed out earlier today, the first couple of years, any suggestion about doing anything in this area was greeted, in many quarters, with total hostility. A threshold has been reached in the last year or so now, and the people are finally agreeing that the present system is not working well. And it has taken some time to get people to agree to that particular position.

As my colleague from Maryland knows far better than I, as you try and put together a legislative package here, it is in a complicated area where, unfortunately, only a relatively small number of people get involved in issues like this. The galleries are empty.

Not for lack of people who are probably in the building covering these matters, but this does not help itself to the 30-second sound bite, to the 30-second campaign ad or a bumper sticker. These are highly complicated areas.

Striking the balance is truly my interest here. In the years I have spent as chairman of the Security Subcommittee and as ranking minority member, I have authored many pieces of legislation in this area, and forever keeping in mind confidence.

Investor confidence. Confidence in our markets is what has made our markets so attractive to people. Why people, as the Senator from Maryland pointed out, why people come from around the world. It is not just because the dollars are here, but the confidence they have in our markets.

I think there has been an erosion in that confidence because of some of the activities we have seen. Trying to strike that balance is truly the interest of this Senator, the Senator from

New York, the Senator from New Mexico, and others.

There will be some amendments. Some of them, as my colleagues know, I support. The statute of limitations, I support that. My colleague from New York wants that. I wanted to keep that in the bill.

We will be together on a few of these things. When we deal with the legislative process, it is darn near impossible to strike that perfect balance all the time.

The Senator from Maryland is correct. Anyone who sits here and says with absolute certainty they know what will happen as a result of legislation they pass, has not been here very long, or never been in the legislative process. We know the system is not working well. We are trying to correct it.

Obviously, how the markets respond, what happens down the road in many ways, we will have to deal with as it occurs. Maybe we have not gone far enough. Maybe we have gone far in some areas.

No one here claims perfection. Clearly, we need to address a present situation that is not working. My hope and desire over the next 2 or 3 days, we have the four, five, six amendments that I think we will have, that possibly we can address some of these issues, modify the bill if that is necessary, in a few areas to accommodate some of these interests, but move the process along so we have a chance to address the underlying concerns people have raised about the present situation.

I thank my colleague for listening. I yield the floor.

MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary and a withdrawal.

(The nomination and withdrawal received today are printed at the end of the Senate proceedings.)

NOTICE OF THE TERMINATION OF THE SUSPENSION OF LICENSES FOR THE EXPORT OF CRYPTOGRAPHIC ITEMS TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (''the Act''), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspension under subsection 902(a)(3) of the Act with respect to the issuance of licenses for the export to the People's Republic of China of U.S. Munitions List articles, insofar as such suspension pertains to export license requests for cryptographic items covered by Category XIII on the U.S. Munitions List.

License requirements remain in place for these exports and require review and approval on a case-by-case basis. The Department of State, in consultation with the Department of Defense and other relevant agencies, will review each request, including each proposed use and end-user, and will approve only those requests determined to be consistent with U.S. foreign policy and national security.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 22, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1039. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–1040. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report relative to transportation rates; to the Committee on Commerce, Science, and Transportation.

EC–1041. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the International Commission for the Conservation of Atlantic Tunas; to the Committee on Commerce, Science, and Transportation.

EC–1042. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report relative to eligible export vessels; to the Committee on Commerce, Science, and Transportation.

EC–1043. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the report on the National Oceanic and Atmospheric Administration's Chesapeake Bay Office; to the Committee on Commerce, Science, and Transportation.

EC–1044. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Electric and Hybrid Vehicles program for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–1045. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on developing and certifying the traffic alert and collision avoidance system for the period January 1 through March 31, 1995; to the Committee on Commerce, Science, and Transportation.

EC–1046. A communication from General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled ''The Coastal Zone Management Act Reauthorization Amendments of 1995''; to the Committee on Commerce, Science, and Transportation.

EC–1047. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report relative to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–1048. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1049. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report relative to the National Natural Landmarks; to the Committee on Energy and Natural Resources.

EC–1050. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC–1051. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the continuing studies of the quality of water in the Colorado River; to the Committee on Energy and Natural Resources.

EC–1052. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1053. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1054. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1055. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1056. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Youth

Conservation Corps for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1057. A communication from the Acting Assistant Secretary of the Interior [Territorial and International Affairs], transmitting, a draft of proposed legislation to provide for the territories, and for other purposes; to the Committee on Energy and Natural Resources.

EC–1058. A communication from the Assistant Secretary of the Interior [Fish and Wildlife and Parks], transmitting, a draft of proposed legislation to improve the administration of the national park system by providing general leasing authority for the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

EC–1059. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the alternative transportation modes feasibility study; to the Committee on Energy and Natural Resources.

EC–1060. A communication from the Secretary of Energy, transmitting, pursuant to law, the report relative to clean coal technologies; to the Committee on Energy and Natural Resources.

EC–1061. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Coke Oven Emission Control Program for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1062. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled ''The Federal Power Administration Transfer Act''; to the Committee on Energy and Natural Resources.

EC–1063. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the status of Exxon and Stripper Well oil overcharge funds as of December 31, 1994; to the Committee on Energy and Natural Resources.

EC–1064. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend the National Energy Conservation Policy Act; to the Committee on Energy and Natural Resources.

EC–1065. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Federal Government energy management and conservation programs for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–1066. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Strategic Petroleum Reserve for the period January 1 through March 31, 1995; to the Committee on Energy and Natural Resources.

EC–1067. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled ''The Study of Export Promotion Practices''; to the Committee on Energy and Natural Resources.

EC–1068. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the ''Program Update 1994'' for the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC–1069. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''The National Highway System Designation Act of 1995''; to the Committee on Environment and Public Works.

EC–1070. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled ''Alaska Demonstration Programs''; to the Committee on Environment and Public Works.

EC–1071. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the study of the feasibility of constructing a four-lane highway in the vicinity of Pensacola, FL; to the Committee on Environment and Public Works.

EC–1072. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the informational copies of 12 lease prospectuses for fiscal year 1996; to the Committee on Environment and Public Works.

EC–1073. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the Nondisclosure of Safeguards Information for the period January 1 through March 31, 1995; to the Committee on Environment and Public Works.

EC–1074. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report under the Toxic Substances Control Act for fiscal years 1992 and 1993; to the Committee on Environment and Public Works.

EC–1075. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for wastewater infrastructure projects for hardship cities; to the Committee on Environment and Public Works.

EC–1076. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for improvements to the New Orleans, LA, wastewater collection system; to the Committee on Environment and Public Works.

EC–1077. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for infrastructure improvements in Bristol County, MA; to the Committee on Environment and Public Works.

EC–1078. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the Republic of Romania; to the Committee on Finance.

EC–1079. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the initial estimate of the applicable percentage increase in inpatient hospital payment rates for fiscal year 1996; to the Committee on Finance.

EC–1080. A communication from the Acting Executive Director of the Physician Payment Review Commission, transmitting, pursuant to law, the report entitled ''Fee Update and Medicare Volume Performance Standards for 1996''; to the Committee on Finance.

EC–1081. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the physician fee schedule update for calendar year 1996; to the Committee on Finance.

EC–1082. A communication from the U.S. Trade Representative, transmitting, pursuant to law, the report on eliminating or reducing foreign unfair trade practices; to the Committee on Finance.

EC–1083. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, the report entitled ''Medicare and the American Health Care System''; to the Committee on Finance.

EC–1084. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, notice of the intention to obligate funds in fiscal year 1995; to the Committee on Foreign Relations.

EC–1085. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of efforts made by the United Nations and specialized agencies to employ Americans; to the Committee on Foreign Relations.

EC–1086. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of a Presidential Determination relative to an assistance program for New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–1087. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of a Presidential Determination relative to African peacekeeping efforts in Liberia; to the Committee on Foreign Relations.

EC–1088. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1089. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1090. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Inspector General's Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC–1091. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report and recommendation on a claim; to the Committee on the Judiciary.

EC–1092. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1093. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1094. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, a draft of proposed legislation entitled ''The Chemical Weapons Convention Implementation Act of 1995''; to the Committee on the Judiciary.

EC–1095. A communication from the Postmaster General, Chief Executive Officer, U.S. Postal Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1096. A communication from the Chairman of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1097. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, the report of financial statements for calendar year 1994; to the Committee on the Judiciary.

EC–1098. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of settlements for calendar year 1994; to the Committee on the Judiciary.

EC–1099. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Federal Open Market

Committee for calendar year 1994; to the Committee on the Judiciary.

EC–1100. A communication from the Attorney General, transmitting, pursuant to law, the report on Federal Prison Industries, Inc.; to the Committee on the Judiciary.

EC–1101. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on the Judiciary.

EC–1102. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of the proposed regulations governing the public financing of the Presidential Primary and General Election Candidates; to the Committee on Rules and Administration.

EC–1103. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''The Substance Abuse and Mental Health Performance Partnership Act of 1995''; to the Committee on Labor and Human Services.

EC–1104. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''The Preventive Health Performance Partnership Act of 1995''; to the Committee on Labor and Human Services.

EC–1105. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''The Health Centers Consolidation Act of 1995''; to the Committee on Labor and Human Services.

EC–1106. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the implementation of the National Child Abuse and Neglect Data System; to the Committee on Labor and Human Services.

EC–1107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Administration on Developmental Disabilities for fiscal year 1993; to the Committee on Labor and Human Services.

EC–1108. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the National Advisory Council on Educational Research and Improvement; to the Committee on Labor and Human Resources.

EC–1109. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Labor and Human Resources.

EC–1110. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the performance standards and measurement systems developed by States for their vocational education programs; to the Committee on Labor and Human Resources.

EC–1111. A communication from the Administrator of the Small Business Administration, transmitting, a draft of proposed legislation relative to the SBA; to the Committee on Small Business.

EC–1112. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend Title 38, United States Code, to authorize the termination of Servicemen's Group Life Insurance when premiums are not paid; to the Committee on Veterans' Affairs.

EC–1113. A communication from the Comptroller General, transmitting, pursuant to law, the report of proposed rescissions of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Commerce, Science, and Transportation, and to the Committee on the Judiciary.

EC–1114. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated June 1, 1995; referred jointly pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986 to the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science and Transportation, the Committee on Environment and Public Works, the Committee on Labor and Human Resources, the Committee on Small Business, the Committee on Finance, the Committee on Foreign Relations, and to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 457. A bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 27. A joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

Wiley Y. Daniel, of Colorado, to be United States District Judge for the District of Colorado.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Andrew Fois, of New York, to be an Assistant Attorney General.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. GRAMS, Mr. WELLSTONE, Mr. CHAFEE, Mrs. HUTCHISON, and Mr. D'AMATO):

S. 955. A bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. BURNS, Mr. MURKOWSKI, Mr. STEVENS, Mr. KEMPTHORNE, Mr. CRAIG, Mr. PACKWOOD, and Mr. HATFIELD):

S. 956. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. KYL, Mr. THOMAS, Mr. HELMS, Mr. SANTORUM, Mr. NICKLES, Mr. THOMPSON, and Mr. BROWN):

S. 957. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 958. A bill to provide for the termination of the Legal Services Corporation; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LIEBERMAN, and Mr. FAIRCLOTH):

S. 959. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. GRAMS, Mr. WELLSTONE, Mr. CHAFEE, Mrs. HUTCHISON, and Mr. D'AMATO):

S. 955. A bill to clarify the scope of coverage and amount of payment under the Medicare Program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use; to the Committee on Finance.

THE ADVANCED MEDICAL DEVICES ACCESS ASSISTANCE ACT OF 1995

Mr. HATCH. Mr. President, today I am introducing S. 955, the Advanced Medical Devices Access Assurance Act of 1995, which is aimed at addressing two serious threats to high quality health care in the United States: restricted access for our senior citizens to the most advanced medical technologies; and our country's loss of clinical research activities to overseas facilities.

I am pleased to be joined in cosponsorship of this bill by Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, and D'AMATO.

At the outset, I want to recognize the outstanding leadership of our House colleague, Chairman BILL THOMAS, who introduced the companion measure as H.R. 1744 on June 6. Representative THOMAS was the first in Congress to

step forward and take steps to correct the problem this legislation addresses. His leadership has been—and will continue to be—invaluable as we seek to move this legislation forward.

Mr. President, the Thomas-Hatch legislation was prompted as a result of recent changes in Health Care Financing Administration [HCFA] reimbursement practices for medical procedures which include the use of so-called next generation devices, that is, medical devices that are undergoing clinical trials, yet which have a precursor device which has been approved by the Food and Drug Administration as safe and effective.

In December 1994, HCFA advised its regional administrators that Medicare must only reimburse for items and services that are reasonable and necessary; according to HCFA, reimbursement of reasonable and necessary procedures precludes payment for the use of experimental or investigational services.

The HCFA policy change came on the heels of an HHS inspector general inquiry in which patient records were subpoenaed from over 100 hospitals nationwide, including virtually all of the premier medical research bodies in this Nation.

The effect of this change in HCFA policy is to deny Medicare contractors discretion to pay for any of a beneficiary's hospital costs and related services if an investigational device were being used, even if such a device were a refinement of a proven, FDA-approved technology.

Examples might be a pacemaker which is made in a smaller version or a pacemaker with a new type of lead.

This policy denies patients in the Medicare population the benefits of the best available medical therapies which are often life-saving and life-enhancing.

In effect, in adopting such a policy, HCFA has created a two-tiered health care delivery system, consisting of privately insured individuals who can access these improved devices and Medicare beneficiaries who cannot. That is a situation which must be corrected.

Although our senior citizens are the immediate victims of this unwise policy, all Americans will ultimately suffer.

Medicare's position not only deprives this Nation's elderly population of the most advanced, efficacious care and treatment available, but it also significantly interferes with clinical advancements that might otherwise be available for generations to come.

In addition, I wish to note there are other negative effects of the HCFA policy.

First, it undermines the Food and Drug Administration's efforts to press for clinical trials to prove the scientific validity of device studies.

Second, it delays advances in medical device technology for all Americans, not just those eligible for Medicare.

Third, it has a disproportionate impact on small-to-medium medical device companies, those who traditionally have been the leaders in developing innovative technology, and who simply cannot afford millions of dollars for clinical trials.

Fourth, the policy exacerbates current over-regulatory trends in the United States which are driving manufacturers offshore and jobs to other countries.

And fifth, it runs contrary to the recent report of the Physician Payment Review Commission, which stated that Congress should authorize an additional coverage option for Medicare so that:

> For devices subject to Food and Drug Administration approval, and for other services that the Health Care Financing Administration has not approved for coverage, Medicare should pay up to the cost of standard care when the device or service is clearly substituting for an established one and is being evaluated in a Food and Drug Administration-approved or other approved study.

The situation giving rise to the legislation we offer today was first brought to my attention a year ago by officials of the LDS Hospital in Salt Lake City, UT.

LDS Hospital, which ranks among the top in the Nation for cardiac procedures, was among the more than 100 hospitals which had received a subpoena from the HHS inspector general for records relating to Medicare reimbursement of cardiac procedures reaching as far back as 10 years ago.

Included on the list of devices that are affected by this policy are implantable cardiac defibrillators, which are devices that are implanted in a patient's body and assist in correcting life threatening, irregular heart rhythms.

My colleagues may be aware of the problem with reimbursement for state-of-the-art defibrillators, as it was reported by John Carey in the June 12 issue of Business Week.

In reporting on the HCFA policy and its impact on clinical research and patient care, Mr. Carey wrote:

> In some cases, the impact on the quality and cost of care was dramatic. Cardiac arrest survivors typically need defibrillators to shock their hearts back to normal whenever the fragile organ races out of control. For several years, the standard device was so large that it had to be implanted in patients' abdomens. But Minneapolis-based Medtronic, Inc. built a much smaller version that could fit in the pectoral region. In trials at the Mayo Clinic, says cardiologist Stephen C. Hammill, the new device reduced deaths from the actual operation from 3.8% of patients to zero—and cut hospital costs after implantation from $24,000 to $18,000. Yet Mayo's doctors could no longer use the device for Medicare patients—unless they found another way to pay the bills.

Let me put this in the words of one of Utah's preeminent cardiologists, Dr. Jeffrey L. Anderson, professor of medicine and chief of the division of cardiology at LDS Hospital in Salt Lake. Dr. Anderson has advised me:

> Since notification of the OIG investigation and statement of the HCFA policy, the Division of Cardiology at LDS Hospital has been instructed by its Counsel to avoid use of any newer, incremental technologies in Medicare patients, including pacemakers, defibrillators, and interventional coronary devices (such as angioplasty catheters and stents) that are not final market approved.
>
> Unquestionably, this has made our Medicare patients second class citizens, as these newer devices are generally smaller, more efficient and effective, last longer, and can be implanted with lower operative risk.

Dr. Anderson also notes a recent tendency for these new devices to be developed overseas and not readily available here. Several firms have indicated to him that initial research is now being done in Europe and elsewhere and that the devices will be only available here after final FDA approval, often with a delay of years.

Or, let me put it in the words of another distinguished Utah cardiologist, Dr. James W. Long, attending cardiothoracic surgeon at LDS Hospital. Dr. Long, has related to me:

> As a cardiothoracic surgeon, I am extremely troubled by the growing restrictions which are preventing us from implementing great medical technologies for our patients in Utah. Clearly, three major impediments exist: First, reimbursement problems; second, product liability concerns; and third, FDA constraints. Those barriers are exercising a major chilling effect on the development and implementation of medical technologies which offer the hope of improving quality of life while offering cost-effectiveness.

Dr. Long goes on to state:

> The current posture of HCFA to deny Medicare reimbursement for any hospital charges when a new, ''investigational'' device is used is an example of how problems with reimbursement lead to discrimination against the Medicare population. To illustrate, I can no longer implant a new, improved heart valve undergoing clinical evaluation because reimbursement for ALL hospital charges for the surgery and care (not just the heart valve charges) will be denied. This is even more frustrating when one considers that these clinical evaluations are being conducted with the approval of the FDA as well as local, hospital internal review boards or medical devices whose efficacy and safety have already been demonstrated in preclinical testing.

Mr. President, as has been demonstrated, over time, increasingly improved devices have been developed that are far more efficient and efficacious than each prior version of the device. Such refinements have not only improved the functioning of the device from a patient perspective, but also have: First, increased the longevity of the device, thereby minimizing the need for replacement; second, improved the ability to monitor the device without the need for hospitalization; and third, minimized the invasiveness of the procedure require to implant the device.

Not only have patient outcomes been greatly improved, but the overall costs and consumption of resources within the health care system have been reduced.

My concerns about the HCFA policy were reinforced by evidence revealed at a recent hearing before the Finance Committee.

During the committee's May 16 hearing on the solvency of the Medicare Program, Dr. John W. Rowe, president of the Mount Sinai Hospital and the Mount Sinai School of Medicine in New York City, shocked members by revealing that his medical center has virtually discontinued clinical research on investigational devices for Medicare beneficiaries because of the HCFA ruling.

Dr. Rowe related to the committee that:

> The Inspector General of HHS has indicated that if a patient is given an investigational device—that is something that is not approved by the Food and Drug Administration for general use—during their experience in the hospital—let me be clear on this—then the entire reimbursement or payment for the admission to the hospital is not allowed and the hospital is liable for treble damages.

Dr. Rowe went on to make the point that, whereas Medicare historically has not paid for research, there are differences between real research and marginal refinements of innovations.

In subsequent correspondence to me, Dr. Rowe added another critical point. He said:

> Mount Sinai's decision to stop all clinical trials was made after careful deliberation and with great regret and consternation, but is the only rational position that can be taken by an institution which, under normal circumstances, performs a large number of such trials.
>
> This outcome is also a particularly unfortunate one given our belief that the controls put in place by the FDA's IDE approval process and Mount Sinai's own Institutional Review Board assure that there is an appropriate level of safety, efficacy, and oversight with respect to each such device. In the end, we believe that Medicare's position not only deprives this nation's elderly population of the most advanced, efficacious care and treatment available, but significantly interferes with clinical advancements that might otherwise be available for generations to come.

A survey released June 7 by the Health Industry Manufacturers Association reveals the problems inherent in this new HCFA policy.

HIMA found that 71 companies have had clinical trials with their products brought to a halt due to the new HCFA policy. The response of 40 percent of those companies was to limit the clinical research to non-Medicare patients, in other words, denying those seniors access to the latest medical technologies.

Even more indicative of this policy's ill effects, 59 percent surveyed had moved clinical trials overseas, and 57 percent said they plan to move future trials overseas.

It is clear that due the uncertainty generated by the recent change, clinical trials are being stopped around the country. Many medical technology companies are moving their life saving research technologies out of the United States to Europe, Canada, and Japan.

This loss of research will erode the base of expertise in an industry where the United States has traditionally led the world.

Mr. President, this policy must be changed for the benefit of our Nation's elderly and all Americans. The bill I am introducing today will accomplish this, and will do so without increasing Medicare costs.

Under S. 955, coverage would be limited to circumstances in which the device in question is used in lieu of an approved device or otherwise covered procedure. This latter provision permits the use of devices that are often used in lieu of far more invasive and costly procedures. Because these investigational devices reduce hospital stays, mortality and the need for repeat procedures, it is likely that this legislation will reduce total treatment costs over the long term.

In fact, the legislation specifically states that the amount of payment for any item or service associated with the use of an investigational device may not exceed the amount which would have been made for the approved device. This will ensure the bill's budget neutrality.

Before closing, Mr. President, I want to discuss for a moment one other factor which led us to introduce S. 955.

After Senator GREGG and I decided to explore legislation in this area, we contacted both HCFA and the OIG.

The IG's office advised us that ''This is an open active investigation in the OIG. It is the policy of the OIG not to comment on investigations which are active.''

HCFA officials, however, were extremely helpful, and shared with us the results of the considerable time they have spent on this issue.

Two factors, however, led us to conclude that legislation is necessary.

First, we were not persuaded that the agency's efforts would be concluded as quickly as we would like. And, second, while we agreed with HCFA's conclusion that Medicare should not be subsidizing pure research, we did not feel that these clinical investigations could be termed as such.

We were, however, concerned that the concept underlying the agency's proposed rule-making could lead to more regulation at the Food and Drug Administration, in that FDA is considering a system whereby investigational devices would be certified as eligible for Medicare reimbursement. With the device approval rate lag already the subject of mounting congressional concern, a process which adds even more review is not viable.

As I close, I would like to note the considerable support this legislation enjoys. It is supported by the American Academy of Orthopedic Surgeons, American College of Cardiology, American Hospital Association, American Medical Association, Association of American Medical Colleges, Association of Professors of Medicine, California Health Care Institute, Catholic Health Association, Cleveland Clinic, Coalition of Boston Teaching Hospitals, Federation of American Health Systems, Greater New York Hospital Association, Health Industry Manufacturers Association, Mayo Clinic, Medical Device Manufacturers' Association, North American Society of Pacing and Electrophysiology, Society of Thoracic Surgeons, and last but not least, the Utah Life Science Industries Association.

In introducing this legislation today, it is our hope that the bill can be incorporated in this year's reconciliation legislation and moved swiftly to the President for signature. I urge my colleagues to support the Advanced Medical Devices Access Act of 1995.

Mr. GREGG. Mr. President, I am pleased to join my colleagues, especially my colleague from Utah, Senator HATCH, in introducing this important piece of legislation. The Advanced Medical Devices Access Assurance Act of 1995 was developed to ensure that our senior population can be treated with the most advanced—and most cost-effective—medical technology available in the United States.

As chairman of the Aging Subcommittee in the Senate, I hear constantly from older individuals who are concerned about their medical options: They read about a breakthrough technology that is being explored, and want an opportunity to have access to such a product. Believe me, these folks are often more up-to-speed about their medical choices than you or I; they take the time to do their homework on their health care.

As my colleague, Senator HATCH, has mentioned, this bill is designed to get at the heart of a problem which has arisen from a Health Care Financing Administration policy. HCFA has ruled that it will not provide Medicare reimbursement for any episode—any portion of the care associated with the device, including the hospital stay—which uses a medical device not defined as ''reasonable or necessary.'' ''Reasonable and necessary'' excluded medical devices which are being implanted under an FDA investigation device exemption, or IDE.

In other words, if a surgeon who is performing state-of-the-art medicine wants to take advantage of a product which has been granted an IDE, he or she can only do so on their population under age 65. The random nature of a person's date of birth controls their ability to receive the most modern care, to get that technology that we are constantly touting as the ''best in the world.''

A clear backlash from this policy has also been seen in the form of a mass exodus of clinical trials being conducted in the United States. The brain drain in medical device development and manufacturing in this country has already begun to have devastating results. Not only does the United States now have an atmosphere unconducive to research and development, but it has evolved into an environment that is unattractive for investment capital to be risked on medical devices. Not only does this relegate the citizens of this

country to antiquated generations of technology, it moves jobs and innovation overseas.

I am hopeful that the administration will listen to the plea we are making here today to address this critical issue. While it may seem like a small item on the agenda of the day, it is probably the greatest accomplishment we could achieve for those individuals whose lives and medical care we can so easily improve.

Mr. KENNEDY. Mr. President, it's an honor to join Senator HATCH and other Members of the House and Senate in sponsoring this important bipartisan legislation. Insurance coverage for physician and hospital costs in clinical trials is essential to the progress of medicine.

The current policy under Medicare is especially counterproductive, because it denies reimbursement even if expensive care would be required if the patient does not participate in the clinical trials.

The current rules are clearly impeding research at leading hospitals around the country. Needed medical care is being denied to many elderly patients. It's time to change the rules and take this step to enhance research and improve patient care.

Mr. WELLSTONE. Mr. President, I am pleased to be a cosponsor of the Advanced Medical Devices Access and Assurance Act of 1995 which would ensure that seniors can participate in clinical trials that involve investigational medical devices. It signifies a bipartisan first step toward addressing patient concerns about access to the latest technologies. It also addresses the medical research community's concerns about its ability to continue clinical trials and keep our Nation at the forefront of state-of-the-art medicine, and industry's concerns about being forced to ship all of its resources and brainpower overseas.

Minnesota's patients, researchers, and world-famous medical device industry have a clear stake in both the upcoming Medicare and FDA reform debates. Researchers and industry need to know that the Government will create a favorable environment for innovation, thus propelling this country's leadership position into the 21st century. And, Minnesota's patients need to know that they will have access to the best technologies and the latest treatments and that, when appropriate, these will be covered by their health insurance policies.

Unfortunately, access to leading-edge technologies and next generation medical devices for seniors—the population for whom they are often most appropriate—has recently been jeopardized by the Medicare Program's refusal to pay for them in clinical trials.

A next generation device could be a pacemaker that enables a person to lead a more normal life than a traditional pacemaker. It could be a pacemaker that would last longer than an older model and be more reliable. Next generation devices are medical devices which are undergoing clinical trials, yet which have a precursor device which has been approved by the Federal Food and Drug Administration [FDA] as safe and effective. Medical devices—unlike drugs—are continually updated and improved incrementally even after they are approved by the FDA.

But currently, Medicare just flat-out denies payment for the surgery or illness if an investigational device is used. Medicare will pay for the costs associated with the hospital stay and procedure only if the soon-to-be-obsolete device is used and not the newest model. Therefore, even though the patient potentially benefits from receiving a modified and updated pacemaker and clinical studies are necessary to prove what works and what does not, hospitals and physicians are being forced to exclude seniors from clinical trials. Providers and manufacturers would rather more their studies to Europe where everybody has health insurance than confront reimbursement practices that discourage participation in clinical trials. But patients want the leading-edge technologies available in the United States as quickly as possible.

Some may surmise that Medicare has refused to pay for this technology because of safety concerns. But any next generation device involved in a clinical trial has already received approval from the FDA to test the device in humans. During a study of an FDA-approved investigational device, physicians and hospitals follow strict procedures. Hospitals and physicians must have the informed consent of the patient in order for the patient to be eligible to participate in the investigational device studies. And the manufacturer of the device is prohibited from promoting or commercializing the device or charging a price that exceeds the amount necessary to recover its costs.

So how much would it cost the Medicare Program to pay for the most advanced technologies? Currently, Medicare pays a lump sum for surgeries and hospitalization based on the illness of the patient. If you need a pacemaker and choose to be a part of an FDA-approved clinical trial, it shouldn't matter to the Medicare Program whether you get the next generation model of the pacemaker or the current model—as long as the FDA has approved the clinical trial and you gave your informed consent to participate. In other words, Medicare should pay the hospital a lump sum based on the illness of the patient regardless of which device is used.

This legislation provides a commonsense solution that protects patient safety, access to high-quality health care, and Federal dollars. For the sake of Minnesotans, we must meet these standards during the broader Medicare and FDA reform debates.

By Mr. HELMS:

S. 958. A bill to provide for the termination of the Legal Services Corporation; to the Committee on the Judiciary.

LEGAL SERVICES CORPORATION TERMINATION ACT

Mr. HELMS. Mr. President, with a Federal debt of $4,898,068,854,045.71 as of the close of business yesterday, Wednesday, June 21, it is time to ask ourselves a question: Should Congress continue to force the American taxpayers to provide $400 million every year to pay the salaries of, and to otherwise fund, a cadre of liberal lawyers to push their social policies down the throats of local governments and citizens?

I think not—and I suspect most Americans will agree, which is why I today offer legislation to put an end to Federal funding of the Legal Services Corporation.

North Carolina has been harassed by the LSC for years and, adding insult to injury, LSC attorneys in my State—whose salaries are federally subsidized—are now demanding through the courts that the State of North Carolina pay them $320,000 in additional attorney's fees.

Mr. President, a few details about this specific outrage may be in order.

In 1975, Legal Services attorneys successfully took on the State of North Carolina on behalf of applicants enrolled in the Federal Aid to Families with Dependent Children and Medicaid programs. And what was the great offense by North Carolina's local Departments of Social Services to justify this law suit? In the arrogant judgment of the Legal Services lawyers, it was taking the local Departments of Social Services too long to process benefits.

Since that time, the local Departments of Social Services have done their best to follow the numerous court-imposed requirements. In the meantime, the Legal Services attorneys have collected—now get this, Mr. President—an estimated $1 million in attorney's fees from the State of North Carolina. But that doesn't satisfy them. On June 14, a little more than a week ago, the Legal Services attorneys demanded another $320,000 in attorney's fees.

So, Mr. President, these Legal Services attorneys are paid with Federal funds through the Legal Services Corporation and with State and local Legal Services agencies to sue the State of North Carolina. In addition to the taxpayers' money they receive to dismantle local government policies, the Legal Services attorneys are demanding additional money for themselves—out of the pockets of North Carolina's taxpayers.

The legislation I introduce today will fix this costly problem—by ending Federal funding of Legal Services Corporation, which like most other social programs spawned in the 1960's, has strayed far from any meaningful purpose and deserves a quiet funeral.

For the record, the Legal Services Corporation was created in 1974 ostensibly to provide legal assistance to low-income citizens in civil, noncriminal matters. Its first annual budget, for fiscal year 1976 was $92 million. It will cost the taxpayers $400 million in 1995. It does not provide services directly, it makes grants to local agencies which in turn are charged with providing legal services to those who can't afford a lawyer—low-income individuals, migrants and immigrants, and minorities.

Mr. President, it is precisely these local agencies throughout the country which, instead of carrying out the mission of providing legal assistance to those who can't afford it, have promoted a liberal public policy and propaganda mechanism. It has unmercifully harassed law-abiding citizens and has imposed countless dollars in litigation costs upon hapless small businessmen, farmers, and so forth.

Another example from North Carolina:

The Department of Labor, in conjunction with local legal services agencies, has done its best to dismantle the H–2A Immigrant Farm Labor Program—a Federal program allowing small farmers to employ temporary immigrant workers for seasonal harvests. Since North Carolina's farmers have had difficulty finding citizens to work on their farms, this program is a must for the survival of many of these small farms.

There is no other reason for the local legal service agency to harass North Carolina's farmers beyond furthering the protection and rights of immigrants brought in to work.

Mr. President, the North Carolina Growers Association is today mired in a legal battle to protect the rights of farmers to participate in a program designed by Congress to assist farming production. The irony is that the American taxpayer is forced to fund the LSC and its liberal assault on law-abiding citizens, North Carolina's farmers included.

Of course, the LSC has not limited its activities to bullying citizens. The corporation has set its sights on changing State laws through litigation and direct lobbying as well as tearing apart programs designed to help the poor and needy.

For example, as the Heritage Foundation notes in its publication "Rolling Back Government: A budget plan to rebuild America," the LSC recently filed a lawsuit in New Jersey challenging that State's welfare reform initiatives. In New York City, the LSC filed suit against HELP, a proven nonprofit organization that assists the homeless. The LSC has even pursued cases to provide free public education for illegal aliens. The Heritage Foundation report concludes, "rather than helping the poor settle landlord disputes, wills, and other common legal problems, the LSC increasingly is concerned with public policy."

Perhaps William Mellor, president of the Washington-based Institute for Justice, said it best in his February 1, 1995, editorial, "Want Welfare Reform? First Fight Legal Services Corporation." Mr. Mellor writes:

> Instead of just helping the poor with problems such as child support and rent disputes, LSC lawyers have worked for years to get the courts to enshrine a constitutional right to welfare.

Mr. President, is this the kind of arrogant absurdity that was intended for LSC? Why should the U.S. Congress be concerned with—as candidate Bill Clinton put it—"changing welfare as we know it," when the taxpayers are required to pay lawyers to convince the Federal courts to make welfare a constitutional right?

The American people in the 1994 election emphatically stated that government is running their lives. There is far more waste in government than the American people should be forced to pay for.

Congress, for a half century, has been wasting billions of dollars, running up a Federal debt of about $4.9 trillion. Fortunately, for the American people, the House of Representatives has proposed eliminating funding for the Legal Services Corporation, the cost of which has exploded from $92 million in fiscal year 1976 to $400 million in fiscal year 1995. And according to the Heritage Foundation, despite this large budget and tremendous growth, only 4 percent of the Nation's poor directly benefited from the LSC in 1993.

So, Mr. President, the legislation I offer today, to eliminate Federal funding of the Legal Services Corporation, is long past due. While saving the taxpayers millions of dollars, my bill will end the forced sponsorship by the U.S. taxpayers of an agency the purpose and mission of which was laid aside and forgotten long ago in its rush to promote a leftwing social agenda. It's time for the Legal Services Corporation to be discarded—forever.

By Mr. HATCH (for himself, Mr. LIEBERMAN, and Mr. FAIRCLOTH):

S. 959. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

CAPITAL GAINS FORMATION ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself, Senator LIEBERMAN, and Senator FAIRCLOTH, I rise today to introduce the Capital Gains Formation Act of 1995.

Mr. President, reducing the high rate on capital gains has long been a priority of mine. Earlier this year, I joined my good friend, the chairman of the House Ways and Means Committee, BILL ARCHER, in introducing the Archer-Hatch capital gains bill in Congress. In the Senate, this was S. 182. A modified version of this bill was passed by the House in April.

Now that the Congress is on the verge of passing a budget resolution that will almost certainly allow for some tax reductions, Senator LIEBERMAN and I concluded that it is now the right time to introduce a bipartisan capital gains tax reduction bill that will contribute to economic growth and job creation. We are exceptionally pleased to be joined in this effort by Senator FAIRCLOTH.

Our bill combines the best elements of the House-passed capital gains bill with a targeted incentive to give an extra push for newly formed or expanding small businesses. Like the capital gains measure the House passed in April, our bill would allow individual taxpayers to deduct 50 percent of any net capital gain. This means that the top capital gains tax rate for individuals would be 19.8 percent. Also like the House bill, it grants a 25-percent maximum capital gains tax rate for corporations. Our bill also includes the important provision of the House-passed bill that would allow homeowners who sell their personal residences at a loss to take a capital gains deduction.

Unlike the House measure, however, the bill we are introducing today does not include provisions for indexing assets. Many of our Senate colleagues have expressed concern that indexing capital assets would results in undue complexity and possibly lead to a resurgence of tax shelters. While I support the concept of indexing capital assets to prevent the taxation of inflationary gains, we felt it important to streamline this bill to ease its passage in the Senate. I hope that some form of indexing can be developed, perhaps by a Senate-House conference committee, that will achieve the goals of indexing without adding undue complexity, or the potential for abuse, to the code.

In addition to the broad-based provisions listed above, our bill also includes some extra capital gains incentives targeted to individuals and corporations who are willing to invest in small businesses. We see this add-on as an inducement for investors to provide the capital needed to help small businesses get established and to expand.

Mr. President, this additional targeted incentive works as follows: If an investor buys newly issued stock of a qualified small business, which is defined as one with up to $100 million in assets, and holds that stock for 5 or more years, he or she can deduct 75 percent of the gain on the sale of that stock, rather than just the 50 percent deduction provided for other capital gains.

In addition, anytime after the end of the 5-year period, if the investor decides to sell the stock of one qualified small business and invest in another qualified small business, he or she can completely defer the gain on the sale of the first stock and not pay taxes on the gain until the second stock is sold. In essence, the investor is allowed to roll over the gain into the new stock until he or she sells the stock and keeps the money. We think that this additional

incentive will make a tremendous amount of capital available for new and expanding small businesses in this country.

Let me just add, Mr. President, that these special incentives should really make a difference in the electronics, biotechnology, and other high-technology industries that are so important to our economy and to our future. The software and medical device industries in Utah are perfect examples of how these industries have transformed our economy. While these provisions are not limited to high-tech companies by any means, these are the types of businesses that are most likely to use them because it is so hard to attract capital for these higher risk ventures.

Our economy is becoming more connected to the global marketplace every day. And, it is vital for us to realize that capital flows across national boundaries these days at the speed of light. Therefore, we need to be concerned with how our trading partners tax capital.

Unfortunately, the United States has the highest rate on individual capital gains of all of the G–7 nations, except the United Kingdom. And, even in the United Kingdom, individuals can take advantage of indexing to alleviate capital gains caused solely by inflation. Germany totally exempts long-term capital gains on securities. In Japan, investors pay the lesser of 1 percent of the sales price or 20 percent of the net gain. I think it is no coincidence, Mr. President, that Germany's saving rate is twice ours and Japan's is three times as high as ours. In order to stay competitive in the world, it is vital that our tax laws provide the proper incentive to attract the capital we need here in the United States.

We are aware that some of the opponents of capital gains tax reductions have asserted that such changes would inordinately benefit the wealthy, leaving little or no tax relief for the lower- and middle-income classes. Nothing could be further from the truth. In fact, capital gains taxation affects every homeowner, every employee who participates in a stock purchase plan, or every senior citizen who relies on income from mutual funds for their basic needs during retirement.

The current law treatment of capital gains only gives preferential treatment to those taxpayers who incomes lie in the highest tax brackets. Under the Capital Formation Act of 1995, the benefits will tilt decidedly toward the middle-income taxpayer. A married couple with $39,000 in taxable income who sells a capital asset would, under our bill, pay only a 7.5 percent tax on the capital gain. Further, this bill would slash the taxes retired seniors pay when they sell the assets they have accumulated for income during retirement.

I also believe there is a misperception about the term ''capital asset.'' We tend to think of capital assets as something only wealthy persons have. In fact, a capital asset is a savings account—which we should all have—a piece of land, a savings bond, some stock your grandmother bought you, your house, your farm, your 1964 Mustang convertible, or any number of things that have monetary worth. It is misleading to imply that only the wealthy would benefit from this bill.

I want to elaborate on this point, Mr. President. Current law already provides a sizeable differential between ordinary income tax rates and capital gains tax rates for upper income taxpayers. The wealthiest among us pay up to 39.6 percent on ordinary income but only 28 percent on capital gains. We certainly feel that this 28 percent is too high. But, my point is that taxpayers in the lower bracket of 28 percent and the lowest bracket of 15 percent enjoy no difference between their capital gains rate and their ordinary income rate. Our bill would correct this problem and give the largest percentage rate reduction to the lowest income taxpayers.

Frankly, Mr. President, the introduction of a bipartisan capital gains bill couldn't come at a better time than now. There are currently some indications that our economy is slowing down. In fact, some experts feel we may be on the verge of a mild recession. Such a concern is always important, but right now, it is critical. Congress is in the midst of formulating a 7-year plan to balance the Federal budget. The elements of this plan will have consequences far beyond this year or even beyond 2002 when we hope to achieve our goal.

Crucial to the achievement of a balanced budget is the underlying growth and strength of our economy. Small changes in the behavior of the economy can make or break our ability to put our fiscal house in order. Thus, especially right now, we can ill afford to have our economy slow down. Such a recession could make it impossible for us to balance the budget. With recession comes the fear of future job insecurity. Both Republicans and Democrats alike can agree that the creation of new and secure jobs is imperative for a vibrant and growing economy.

This is where a reduction of the capital gains rate can be so important. By stimulating the economy and spurring job creation, a cut in the capital gains rate can stave off the downturn that appears to be on its way.

This is not just our opinion. Senator LIEBERMAN and I received a letter yesterday from Allen Sinai, a well-known and respected mainstream economist. In his letter, Dr. Sinai concludes that ''The enactment of this bipartisan Senate bill* * *could well help offset forces contributing to the current cooling of the U.S. economy.''

Many Americans have expressed concern about the wisdom of a tax reduction while we are trying to balance the budget. However, Mr. President, we see this bill as a change that will help us balance the budget. The evidence clearly shows that a cut in the capital gains tax rate will increase, not decrease, revenue to the Treasury. During the period from 1978 to 1985, the tax rate on capital gains was cut from almost 50 percent to 20 percent. Over this same period, however, tax receipts increased from $9.1 billion to $26.5 billion. The opposite occurred after the 1986 Tax Reform Act raised the capital gains tax rate. The higher rate resulted in less revenue.

Mr. President, the capital gains tax is really a tax on realizing the American dream. For those Americans who have planted seeds in savings accounts, small or large companies, family farms, or other investments, and who have been fortunate enough and worked hard enough to see them grow, the capital gains tax is a tax on success. It is an additional tax on the reward for taking risks. The American dream is not dead; it's just that we have been taxing it away.

I urge my colleagues on both sides of the aisle to take a close look at this bill. We believe it offers a solid plan to help us achieve our goal of a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues. This bill will help us get there.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 959

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Capital Formation Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—CAPITAL GAINS REFORM

Subtitle A—Capital Gains Deduction for Taxpayers Other Than Corporations

SEC. 101. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

''SEC. 1202. CAPITAL GAINS DEDUCTION.

''(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

''(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

''(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(d) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

''(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

''(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

''(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

''(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.''

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking ''the amount of gain'' in the material following subparagraph (B)(ii) and inserting ''50 percent ($^{25}/_{35}$ in the case of a corporation) of the amount of gain''.

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed.''

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows ''long-term capital gain,'' and inserting ''the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.''

(5) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(6) The last sentence of section 643(a)(3) is amended to read as follows: ''The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.''

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account''.

(8) Paragraph (4) of section 691(c) is amended by striking ''sections 1(h), 1201, 1202, and 1211'' and inserting ''sections 1201, 1202, 1203, and 1211''.

(9) The second sentence of section 871(a)(2) is amended by inserting ''or 1203'' after ''section 1202''.

(10)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.''

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

''(A) CORPORATIONS.—In the case of a corporation—'', and

(ii) by striking in clause (i) ''in lieu of applying subparagraph (A),''.

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

''(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).''

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking ''if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,'', and

(ii) by striking ''section 904(b)(3)(E)'' and inserting ''section 904(b)(3)(D)''.

(11) The last sentence of section 1044(d) is amended by striking ''1202'' and inserting ''1203''.

(12)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

''(2) SPECIAL RULES.—

''(A) ADJUSTMENTS.—

''(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

''(II) the adjusted taxable income for such taxable year.

''(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

''(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.''

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

''(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.''

(13) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply'' before the period at the end thereof.

(14) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''25 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''25 percent''.

(15)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (25 percent''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (25 percent''.

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

''Sec. 1202. Capital gains deduction.

''Sec. 1203. 50-percent exclusion for gain from certain small business stock.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) shall apply to contributions on or after January 1, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (c)(12) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (c)(14) shall apply only to amounts paid after the date of the enactment of this Act.

Subtitle B—Capital Gains Reduction for Corporations

SEC. 111. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

''(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

''(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

''(2) a tax of 25 percent of the net capital gain.

''(b) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1994, and beginning before January 1, 1996, in applying subsection (a), net capital gain for such taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1994.

''(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(d)(2) shall apply for purposes of paragraph (1).

''(c) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking ''65 percent'' and inserting ''75 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

Subpart C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 121. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and'', and by adding at the end the following new paragraph:

''(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

TITLE II—SMALL BUSINESS VENTURE CAPITAL STOCK

SEC. 201. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) INCREASE IN EXCLUSION PERCENTAGE.—

(1) IN GENERAL.—Section 1203(a), as redesignated by section 101, is amended—

(A) by striking ''50 percent'' and inserting ''75 percent'', and

(B) by striking ''50-PERCENT'' in the heading and inserting ''Partial''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1203, as so redesignated, is amended by adding at the end the following new subsection:

''(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see sections 1201 and 1202."

(B) The heading for section 1203, as so redesignated, is amended by striking ''**50-percent**'' and inserting ''**partial**''.

(C) The table of sections for part I of subchapter P of chapter 1, as amended by section 101(d), is amended by striking ''50-percent'' in the item relating to section 1203 and inserting ''Partial''.

(b) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1203, as redesignated by section 101, is amended by striking ''other than a corporation''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.''

(c) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(d) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Paragraph (1) of section 1203(d), as redesignated by section 101, is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(2) Subsection (d) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 1996, the $100,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''

(e) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as redesignated by section 101, is amended by striking subsection (b).

(f) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as redesignated by section 101, is amended—

(A) by striking ''2 years'' in subparagraph (B) and inserting ''5 years'', and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.''

(g) QUALIFIED TRADE OR BUSINESS.—Section 1203(e)(3), as redesignated by section 101, is amended by inserting ''and'' at the end of subparagraph (C), by striking '', and'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsections (a), (c), (e), and (f) shall apply to stock issued after August 10, 1993.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

''(a) NONRECOGNITION OF GAIN.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

''(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

''(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c).

''(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).''

''(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

''(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

''(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

''(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

''(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4).''

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking ''or 1044'' and inserting '', 1044, or 1045'', and

(B) by striking ''or 1044(d)'' and inserting '', 1044(d), or 1045(b)(4)''.

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

''Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock sold or exchanged after the date of the enactment of this Act.

SUMMARY OF CAPITAL FORMATION ACT OF 1995

The Capital Formation Act of 1995 would reduce the tax rate on capital gains and encourage investment in new and growing business enterprises through the following provisions:

I. BROAD-BASED TAX RELIEF (SIMILAR TO PROVISIONS IN HOUSE-PASSED H.R. 1215):

(1) Individual taxpayers would be allowed a deduction of 50 percent of any net capital gain. The top effective tax rate on capital gains would thus be 19.8 percent.

(2) Corporations would be subject to a maximum capital gains tax rate of 25 percent.

(3) Capital loss treatment would be allowed with respect to the sale of a taxpayer's principal residence.

(4) Indexing of capital assets would not be included.

(5) Would be effective for taxable years ending after December 31, 1994.

II TARGETED INCENTIVE TO INVEST IN SMALL BUSINESS ENTERPRISES:

(1) Provides an exclusion of 75 percent of capital gains from sale of investment in qualified small business stock held for more than five years.

(2) Allows 100 percent deferral of capital gains tax, after the five year period, if proceeds from the sale of qualified small business stock are rolled over within 60 days into another qualified small business stock. Gains accrued after the rollover would qualify for a 50 percent deduction if held for more than one year, 75 percent exclusion if held for more than another five years, or at any time, could be rolled over yet again into another qualified small business stock for 100 percent deferral.

(3) Would be effective upon date of enactment.

Example: A taxpayer buys qualified small business stock in 1996 for $10,000. She sells the stock in 2002 for $20,000. She would be allowed to exclude 75 percent of the gain, or $7,500. Of, if she chose to roll over the $20,000 proceeds from the sale into another qualified small business stock within 60 days, she would defer all tax until she ultimately sold the second stock.

Qualified small business stock is defined as newly issued stock of corporations with up to $100 million in assets and is an expansion of the current law targeted small business capital gains exclusion added by the 1993 tax act. The changes in the targeted small business stock incentive from current law would:

(1) Allow corporations to participate.

(2) Remove the current law per-issuer limitation.

(3) Repeal the working capital limitation.

(4) Expand the list of qualified businesses in which the corporation may engage.

LEHMAN BROTHERS,
June 21, 1995.

Hon. ORRIN HATCH,
U.S. Senate,
Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS HATCH AND LIEBERMAN: The Hatch-Lieberman Capital Gains Tax Reduction Proposal would have positive impacts on U.S. economic growth, employment and investment. The enactment of this bipartisan Senate bill, whose main features include a 50 percent exclusion for individual capital gains (a top marginal rate of 19.8 percent), a 25 percent maximum capital gains rate for corporations, and expansion of the current 50 percent exclusion for small business capital stock to 75 percent, as well as other small business provisions, could well help offset forces contributing to the current cooling of the U.S. economy.

Indexing capital gains, not included in the Hatch-Lieberman proposal, also would help stimulate economic activity and has the positive dimension of eliminating the distortion from the taxation of illusory gains that come from inflation. It would also be good to have. But of the two measures, capital gains rate reduction and indexing under limitations set by the very important first priority of moving the federal budget into balance, the rate reductions and small business provisions provide more ''bang-for-a-buck''.

A stronger economy would be stimulated by the lower cost of capital from a reduction in capital gains taxes, also business and personal saving would rise, and more business capital spending occur. This would come about, in part, from increased stock prices and higher household net worth as investors shifted funds away from other investments into stocks. The stronger economy would lead to increased hiring and new jobs. Wealth, income and profits improvement would raise spending, saving, and purchases of financial assets.

With a stronger economy and increased capital formation, greater entrepreneurship, as measured by new business incorporations, ought to raise productivity and thus the potential output of this economy. This supply-side effect, although modest, would tend to limit any potential inflationary effect of the capital gains tax reductions. In addition, an unlocking effect on tax receipts from the unrealized capital gains that would be realized ought to reduce the ex-post cost of this tax measure.

Of all the tax reductions being considered by the Congress, the most beneficial, in a balanced way, to both the demand-side and supply-sides of the economy, potentially at the least net cost, would be the capital gains tax rate reductions that are proposed.

On several criteria for judging changes in taxes—allocative efficiency, economic growth, savings and investment, international competition and fairness—capital gains tax reduction wins on almost all. The one exception is equity, because higher income families tend to hold proportionately more of the assets that could be subject to capital gains.

Sincerely,

ALLEN SINAI.

Mr. LIEBERMAN. Mr. President, I am delighted and proud to join Senator HATCH in this bipartisan introduction of the Capital Formation Act of 1995. As a Democrat, I have often borrowed Paul Tsongas' line that you can't be pro-jobs and anti-business, because the jobs we want for people are going to come from business. The bill we are introducing today is pro-jobs and pro-business. It gives people at all income levels a reason to put their money in places where that money will help businesses start and grow and that means more jobs for Americans and more economic prosperity for our country.

We are introducing this bill at a time when the American economy may be on the verge of recession. There are those who say we are already in a recession. One of the most effective things Congress can do to give our economy a boost is to cut the capital gains tax rate.

We also have a shortage of savings and investment in this country. Our personal savings rate is now about one-third of Japan's rate and about one-half of Germany's rate. We are ill prepared to deal with the effects of recession, and we are ill prepared for the economic battles of the global marketplace. Unlike most other industrialized nations, we stifle savings and investment by over-taxing it. Nations like Japan and Germany value capital gains. Germany exempts long-term capital gains from taxes for individuals and Japan taxes these gains at either 1 percent of the sales price or 20 percent of the net gain. They reward investment.

Not only have we done too little to encourage investment, too often it is actively discouraged. To attack capital gains tax relief as a bonanza for the wealthy is quite simply missing the point.

The benefits of this capital gains tax cut will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan at work has a stake in capital gains tax relief. That represents millions and millions of middle class American families. We have information on 310 major firms that offer their employees stock options and stock purchase plans—companies like GTE, Pfizer and Stanley Works, to name a few of the companies in my State.

Each of those workers and their spouses and children stand to gain from what we propose today. And these firms are just the tip of the iceberg.

And we're talking about direct beneficiaries—not even counting the many middle and lower income people who will get and keep jobs thanks to the investments spurred by the capital gains tax cut.

Of course, people who are wealthy can benefit from this proposed capital gains cut, but that is the point. They will benefit if they invest more of their money in ways that help our economy and create jobs. That benefits everyone. Government doesn't make people rich. But Government can and should encourage people who have money to use that money in a way that helps the economy as a whole. That is what this is about. We are simply talking about letting people who are willing to risk their money keep a little bit more of it if they invest that money in our economy.

People who oppose cutting the capital gains tax are treating profit as if it were to be avoided. I believe that we should recognize profit as being an advantage of the free market, and we want to encourage it, reward it, help it spread its benefits throughout the

economy to more and more of our people. Opponents also frame this debate in a winners-and-losers context that is totally inappropriate to what is at stake here. Because a rising tide of economic growth raises all ships, there need be no losers when capital gains taxes are cut by our bill.

Finally, let me point out that this capital gains tax is broad but it also has a targeted element. It aims at directing investment in a way that maximizes the benefit for our economy. It promotes investment in small businesses—the firms that are driving job creation in our economy. It encourages people to leave their investments in small businesses, start-up businesses for a longer period of time, giving entrepreneurs the kind of predictable cash flow they need to make their businesses succeed.

The targeted feature of our capital gains tax cut will be very helpful to the kinds of small businesses we need for our future—the high technology businesses that will be the source of many new jobs in the next century, and that will be the source of our success in global markets. These businesses are high risk. They require a lot of capital investment early on. The payoff is down the road. And the benefits for America are, potentially, enormous. Not just jobs and profits for Americans. But exciting new technological innovations. New ways to educate our children. New medicines and medical devices. New services, and new opportunities for recreation. All these positive changes need the kind of investment our Capital Formation Act will encourage.

In closing, let me say that I see this bill as the first leg of a tripod of tax relief for the American people. The second leg is the President's tax credit for children and tax deduction for higher education costs, which I support.

The third leg will be a research and development tax credit that is being developed now and I hope will be introduced in the near future.

With these tax proposals, we can help more Americans raise their kids today, educate them tomorrow, and provide them with good job opportunities in thriving American businesses in the future.

Mr. FAIRCLOTH. Mr. President, today I am joining with Senators HATCH and LIEBERMAN to introduce the Capital Formation Act of 1995. This bipartisan effort sends a clear signal that there is broad-based support for a capital gains tax cut to stimulate job creation, foster sound economic growth, and enhance U.S. international competitiveness.

Prior to my election to the Senate, I spent 45 years in the private sector running a small business and meeting a payroll. I learned firsthand that a cut in the capital gains tax rate would stimulate the release of billions of dollars of unproductive capital, unlock economic assets, and encourage new investment by both mature and new businesses. Moreover, a reduction in capital gains taxes would have a powerful impact on the entrepreneurial segment of the economy, thereby creating new start-up companies and new jobs.

I commend Senators HATCH and LIEBERMAN for working together to craft a bipartisan capital gains tax cut proposal. I am proud to be the first cosponsor of this bill, and I sincerely hope that many of our colleagues—Democrats and Republicans—will join this important effort to provide much needed tax relief and encourage further economic growth.

ADDITIONAL COSPONSORS

S. 400

At the request of Mrs. HUTCHISON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 400, a bill to provide for appropriate remedies for prison conditions, and for other purposes.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 495

At the request of Mrs. KASSEBAUM, the names of the Senator from Washington [Mr. GORTON] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 593

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 593, a bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the export of new drugs and for other purposes.

S. 854

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 854, a bill to amend the Food Security Act of 1985 to improve the agricultural resources conservation program, and for other purposes.

S. 896

At the request of Mr. CHAFEE, the names of the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

EXON AMENDMENT NO. 1462

Mr. EXON proposed an amendment to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. 301. SHORT TITLE.

This amendment may be cited as the ''Federal Highway and Railroad Grade Crossing Safety Act of 1995''.

SEC. . INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC. . STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations, to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) DEADLINE.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. . VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31311 of title 49, United States Code, is amended by

adding at the end the following new subsection:

''(h) GRADE-CROSSING VIOLATIONS.—

''(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

''(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

''(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

''(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.''.

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(18) GRADE-CROSSING REGULATIONS.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.''.

SEC. . SAFETY ENFORCEMENT.

(a) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) REPORT.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. . CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) STATEMENT OF POLICY.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) PARTNERSHIP AND OVERSIGHT.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provision for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) CROSSING FREEZE.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

EXON AMENDMENT NO. 1463

Mr. EXON proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in the bill add the following:

SEC. . TRUCK LENGTH AND THE NORTH AMERICAN FREE TRADE AGREEMENT.

Any federal regulatory standard for single trailer length issued pursuant to negotiations and procedures authorized under the North American Free Trade Agreement, shall not exceed fifty three feet.

SMITH (AND GREGG) AMENDMENT NO. 1464

Mr. CHAFEE (for Mr. SMITH for himself and Mr. GREGG) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place on the bill add the following new section:

SEC. .

The State of New Hampshire shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

WARNER (AND OTHERS) AMENDMENT. NO. 1465

Mr. WARNER (for himself, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 440, supra; as follows:

On page 22, between lines 2 and 3, insert the following:

SEC. 1___. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

''(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).''.

On page 26, between lines 8 and 9, insert the following:

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

On page 26, between lines 13 and 14, insert the following:

(c) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.''.

On page 30, strike line 14 and insert the following:

SEC. 119. INTELLIGENT TRANSPORTATION SYSTEMS.

On page 30, lines 15 and 16, strike ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and insert ''INTELLIGENT TRANSPORTATION SYSTEMS''.

On page 31, lines 1 and 2, strike ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and insert ''INTELLIGENT TRANSPORTATION SYSTEMS''.

On page 31, lines 10 and 11, strike ''intelligent vehicle-highway systems'' and insert ''intelligent transportation systems''.

On page 31, between lines 20 and 21, insert the following:

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2048) is amended—

(A) in item 10, by striking ''(IVHS)'' and inserting ''(ITS)''; and

(B) in item 29, by striking ''intelligent/vehicle highway systems'' and inserting ''intelligent transportation systems''.

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2176) is amended by striking ''intelligent vehicle highway systems'' and inserting ''intelligent transportation systems''.

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

''PART B—INTELLIGENT TRANSPORTATION SYSTEMS'';

(B) in section 6051, by striking ''Intelligent Vehicle-Highway Systems'' and inserting ''Intelligent Transportation Systems'';

(C) by striking ''intelligent vehicle-highway systems'' each place it appears and inserting ''intelligent transportation systems'';

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking ''intelligent vehicle-highway'' and inserting ''intelligent transportation systems''; and

(ii) in the subsection heading of subsection (b), by striking ''INTELLIGENT VEHICLE-HIGHWAY SYSTEMS'' and inserting ''INTELLIGENT TRANSPORTATION SYSTEMS'';

(E) in the subsection heading of section 6056(a), by striking ''IVHS'' and inserting ''ITS'';

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking ''IVHS'' and inserting ''ITS''; and

(G) in the paragraph heading of section 6059(1), by striking ''IVHS'' and inserting ''ITS''.

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking ''intelligent vehicle highway systems'' and inserting ''intelligent transportation systems''.

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking ''Intelligent Vehicle-Highway Systems'' each place it appears and inserting ''Intelligent Transportation Systems''; and

(B) by striking ''intelligent vehicle-highway system'' and inserting ''intelligent transportation system''.

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking ''INTELLIGENT VEHICLE-HIGHWAY'' and inserting ''INTELLIGENT TRANSPORTATION''; and

(B) by striking ''intelligent vehicle-highway'' each place it appears and inserting ''intelligent transportation''

On page 33, line 19, strike ''intelligent vehicle-highway systems'' and insert ''intelligent transportation systems''.

On page 36, line 12, strike the quotation marks and the following period.

On page 36, between lines 12 and 13, insert the following:

''(24) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.''.

On page 38, beginning on line 2, strike ''and shall not'' and all that follows through ''program'' on line 4.

On page 40, strike lines 1 through 3.

On page 43, between lines 14 and 15, insert the following:

SEC. 1___. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

On page 57, line 4, insert ''and'' at the end.

On page 57, line 8, strike ''and'' at the end.

On page 57, strike lines 9 through 11.

NICKLES AMENDMENT NO. 1466

Mr. NICKLES proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.''.

STEVENS AMENDMENT NO. 1467

Mr. STEVENS proposed an amendment to the bill S. 440, supra, as follows:

At the appropriate place in title I of the bill insert the following new section:

SEC. . MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights of way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) This section shall cease to have any force or effect after December 1, 1995.

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the investigation of friendly fire incident during the Persian Gulf war.

This hearing will take place on Thursday, June 29, 1995, in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 22, 1995, at 10:15 a.m. in SD 226.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Oversight of OSHA, during the session of the Senate on Thursday, June 22, 1995, at 9:30 a.m.

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

SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, June 22, 1995, beginning at 9:30 a.m., in room G–50 of the Dirksen Senate Office Building on S. 487, a bill to amend the Indian Gaming Regulatory Act, and for other purposes.

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

SUBCOMMITTEE ON DRINKING WATER, FISHERIES, AND WILDLIFE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries, and Wildlife be granted permission to meet Thursday, June 22, at 10 a.m., to conduct an oversight hearing on the National Marine Fisheries Service policy on spills at Columbia River hydropower dams, gas bubble trauma in endangered salmon, and the scientific methods used under the Endangered Species Act which gave rise to that policy.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 22, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 852, a bill to provide for uniform management of livestock grazing on Federal land, and for other purposes.

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

ADDITIONAL STATEMENTS

THE TELECOMMUNICATIONS BILL

• Mr. ABRAHAM. Mr. President, I want to take a few moments to set forth the reasoning behind a number of my votes with respect to S. 652, the telecommunications bill. Although S. 652 would not deregulate the telecommunications industry as much or as quickly as I would like, it eventually would lead to competition in a number of telecommunications markets that currently are monopolistic. Specifically, the bill would remove artificial barriers to competition in the phone services markets as well as in the cable, equipment manufacturing, and other markets. I, therefore, supported final passage of S. 652.

Much of the debate concerning the bill focused on the issue of RBOC entry into the long-distance market. An amendment offered by Senator MCCAIN, No. 1261, would have defined the term ''public interest'' as it relates to the FCC's decision as to whether to allow a Bell to enter the long-distance market. The bill as introduced did not define that term. I voted for the McCain amendment because the absence of such a definition would give the FCC virtually absolute discretion as to whether a Bell can enter the long-distance market—or, put differently, as to whether consumers will enjoy the benefits of full competition in that market.

The Senate's rejection of McCain amendment No. 1261 was part of the reason for my vote against the Dorgan-Thurmond amendment, No. 1265. The Dorgan-Thurmond amendment would have added yet another layer of regulatory obstacles to the RBOC's entry into the long-distance market. The bill already would have required a Bell to satisfy an extensive competitive checklist and to secure the FCC's public interest determination before entering the long-distance market; and even then, the Bell could enter that market only through a separate subsidiary. Moreover, the bill would for the first time allow utility and cable companies to compete for the Bells' local customers, thereby further reducing the Bells' ability to subsidize predatory pricing in the long-distance market by raising the prices paid by local customers. Thus, the Dorgan-Thurmond amendment, by requiring the Bells additionally to secure the approval of the Department of Justice before entering the long-distance market, would only delay unnecessarily the arrival of full competition in that market. To paraphrase Holmes, three layers of regulatory obstacles is enough.

From the outset of the Senate's consideration of S. 652, I was concerned that the bill might mandate discounted telecommunications rates for selected groups. The cost of such mandatory discounts is inevitably passed on to customers whose rates are not set by Congress, and thus often falls, at least in part, on poorer customers who cannot muster the lobbying clout necessary to secure special treatment. Moreover, apart from the equities of the issue, I think Government exceeds its legitimate role when it sets special telecommunications rates for favored groups. I, therefore, supported McCain amendment No. 1262, which would have struck bill language, contained in section 310, that would force telecommunications providers to provide their services to schools and hospitals at discounted rates. After the Senate rejected amendment 1262, I voted for another McCain amendment, No. 1285, that at least would subject section 310 to means testing. The amendment passed.

Finally, I want to set forth in detail my reasons for supporting McCain amendment No. 1276. This amendment would jettison our current crazy-quilt of universal-service subsidies, in favor of a means tested voucher system. The universal-service subsidies and rate-averaging schemes currently in place have as their principal effect the perpetuation of telephone service monopolies in rural areas. These schemes exclude competitors from rural telephone service markets in two ways. First, by keeping rural rates artificially low, rate averaging reduces if not eliminates the incentive of would-be competitors to enter the rural services market. Second, the subsidization of existing providers effectively bars the entry into those markets of competitors who would not be similarly subsidized. In contrast, a voucher system would not distort market signals or suppress competition in the markets whose customers it seeks to help. Thus, the need-based voucher system described in the McCain amendment would be vastly preferable to the current and proposed cost-based schemes, which make the inner-city poor pay higher phone rates so that customers in remote areas, including wealthy resort areas, can enjoy lower rates.•

THE ABOLITION OF THE DEATH PENALTY IN SOUTH AFRICA

• Ms. MOSELEY-BRAUN. Mr. President, the new Government of South Africa has just abolished the death penalty.

As we all know, South Africa has undergone incredible changes in the last 2 years. They have achieved nothing short of a revolution—peacefully, via the ballot box. They have abolished apartheid and rebuilt their government and institutions to reflect real majority rule. The American people can take pride in the fact that American leadership in imposing international sanctions played a significant role in making this negotiated revolution possible, and the Government of Nelson Mandela a reality.

South Africa has looked to the United States as a model as it creates its institutions of government. I recently met with member of Parliament Johnny DeLange, chairman of the equivalent of our Judiciary Committee in the South African Parliament, who was in the United States to study how Congress and the Justice Department interact. Likewise, the new Constitutional Court, the equivalent of the Supreme Court, has looked to American jurisprudence for guidance in a variety of areas of the law.

As a lawyer and a Senator, I take pride in the fact that South Africa is looking to our legal system and our body of laws as a model. But in the case of the death penalty, after thoroughly examining its practice in the United States, the 11 justices of the

Constitutional Court of South Africa unanimously concluded the death penalty is cruel and unusual punishment subject to elements of arbitrariness and the possibility of error.

The case before the Constitutional Court, *Makwanyane and McHunu* versus *State*, stemmed from an intra-family murder-for-hire which occurred in July 1987. Five people died when their hut was set on fire. Both men who carried out the attack and the man who hired them were convicted of murder and sentenced to death. The issues raised before the court concerned not the facts of the crime, but rather the constitutionality of the death penalty. Attorneys for the defendants cited the long history of racial discrimination and the arbitrary application of the death penalty in the United States as grounds for outlawing this ultimate punishment. The South African court heard that the United States practice of leaving capital punishment to the discretion of the judge and jury opens the door to the inevitable influences of race, poverty, and the quality of representation.

In effect, the South African court came to the same conclusion as former United States Supreme Court Justice Harry Blackmun, who concluded that the death penalty experiment has failed. Although Blackmun repeatedly voted to uphold capital punishment in the belief that the law could be channeled to guarantee its fair application, he ultimately decided that he could no longer ''Tinker with the machinery of death.''

South Africa had a history of applying the death penalty in an even more arbitrary fashion than the United States. Until the use of the death penalty was suspended in February 1990, South Africa had one of the highest rates of judicial executions in the world. The previous government executed 1,217 people between 1980 and 1989. And, as in the United States, it was much more common for a black defendant to be sentenced to death than a white defendant. In 1988, 47 percent of black defendants convicted of murdering whites were sentenced to death; 2.5 percent of blacks convicted of murdering other blacks were sentenced to death; while no whites convicted of killing blacks were given the death penalty.

I want to emphasize that the abolition of the death penalty will not result in impunity for those who commit the most heinous of crimes. But South Africa concluded that even in the country they looked to for guidance, the United States, the death sentence had not been shown to be materially more effective at deterring or preventing murder than the alternative sentence of life imprisonment.

The Government of South Africa has come to the decision that the recognition of the right to life and dignity is incompatible with the death penalty. I applaud them for it.●

MAJ. GEN. DAVID P. DE LA VERGNE

● Mr. GORTON. Mr. President, I am honored to offer my congratulations to Maj. Gen. David P. de la Vergne, who retires on June 25, 1995, as commanding general and civilian executive officer of Fort Lawton, WA.

The general's career has been exemplary. A native of Meriden, CT, he graduated from the Citadel and was commissioned a second lieutenant in 1961. After attending the infantry officer's basic and counterintelligence officers course, he served as special agent in charge of the Hartford Resident Office of the 108th Intelligence Corps Group. He did tours in Germany as operations officer of the 207th Military Intelligence Detachment and as commander of the Columbia Field Office of the 111th Military Intelligence Group. Posted to I Corps Advisory Group, Military Assistance Command Vietnam, he served as order of battle advisor and sector intelligence advisor, and then returned from Vietnam to serve as security officer for the Defense Language Institute in Monterey, CA.

After leaving active military duty in 1971, Major General de la Vergne was assigned to the 6211th U.S. Army Garrison, Presidio of San Francisco, where he served as inspector general, S–1, comptroller, and deputy commander before leaving to assume command of the 2d Battalion, 363d Regiment, 4th Brigade, 91st Division, training; Returning to the 6211th in 1981, he served as the garrison commander for 3 years before leaving for the 124th ARCOM, where he served as deputy chief of staff, resource management, as deputy chief of staff, operations, and then as chief of staff and deputy commander prior to his current assignment as commanding general.

Major General de la Vergne is a graduate of the Command and General Staff College and the Army War College, and he has completed courses at the Intelligence School, the Defense Language Institute, the Industrial College of the Armed Forces, the Inspector General School, the U.S. Army Institute for Administration and the Army Logistics Management Center.

His decorations include the Bronze Star, the Meritorious Service Medal with Oak Leaf Cluster, the Air Medal, the Joint Service Commendation Medal, the Army Commendation Medal with two Oak Leaf Clusters, the Republic of Vietnam Cross of Gallantry with Bronze Star and the Republic of Vietnam Honor Medal First Class.

Time and time again, the general has proven his mettle and displayed most excellent leadership. To quote from the citation for his Distinguished Service Medal, which will be awarded on the occasion of his official change of command ceremony on June 25, 1995:

> . . . for exceptionally meritorious service of great responsibility:
>
> Major General David P. de la Vergne distinguished himself by exceptionally meritorious service in successive positions of great responsibility from 15 March 1988 to 27 March 1995. In all assignments, General de la Vergne displayed unexcelled leadership and absolute dedication. As Chief of Staff and later Deputy Commander, 124th United States Army Reserve Command (ARCOM), Fort Lawton, Washington, he displayed exceptional vision, skill, and tenacity in the management and direction of major Army activities. Culminating his distinguished service as Commander of the 124th ARCOM, General de la Vergne took immediate steps to provide the ARCOM with a positive image of its leaders and mission. General de la Vergne's energetic approach for improvement in training, logistics, and recruiting resulted in the molding of a mission-capable unit. His dynamic leadership and unique managerial abilities were instrumental in achieving significant improvements in the readiness posture of the 124th ARCOM elements. This was most evident during the mobilization of nine units to support Operation DESERT SHIELD and Operation DESERT STORM. Major General de la Vergne's unswerving dedication, outstanding service, professional skill, and superb leadership reflect great credit upon him, the United States Army Reserve and the United States Army.''

I want to thank Major General de la Vergne for his many years of service to this country, and I wish him and his wife, Elinor, all the best.●

RECOGNIZING THE ACHIEVEMENTS OF DISTINGUISHED ANNE ARUNDEL COUNTY YOUTH

● Ms. MIKULSKI. Mr. President, it is with a great deal of pride and satisfaction that I commend to your attention a number of young adults from Anne Arundel County. These outstanding individuals are listed below, and they are outstanding because of their character, their academic achievements, and their contributions to their home communities.

Three years ago, an organization was formed in Anne Arundel County by one of my college classmates, Dr. Orlie Reid. He and other caring individuals gathered together to discuss what could be done to encourage our youth to perform at their highest levels and to be community minded, to reinforce the positive and discourage the negative. The Concerned Black Males of Annapolis has done just that since its inception in 1992.

On Monday, June 26, 1995, CBM is recognizing 88 young men and women at its first annual awards dinner. These students were nominated by church, school and community leaders. I extend my heartiest congratulations to them all for their efforts, and to the organizers of the Awards Dinner and the founders of Concerned Black Males of Annapolis. A concerned community working with youth sets a fine example, and CBM has proven over the years that it works. My best to all of them.●

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

● Mr. KYL. Mr. President, the White House Conference on Small Business

met earlier this month to consider issues of concern to small business men and women around the country, and to make recommendations to this Congress about what it can do to make Federal policy more responsive to small business's needs.

The men and women who attended the conference represent a vital economic force in the country. There are more than 20 million small businesses in the United States, and they represent the fastest growing sector of the economy. Small businesses provided all of the net new jobs created between 1987 and 1992. They employed 54 percent of the private work force in 1990. Small businesses provide two of every three new workers with their first job. Small businesses contributed 40 percent of the Nation's new high-technology jobs during the past decade. Together, they truly represent the engine that drives our Nation's economy.

So when small business leaders speak out on issues of concern, it would behoove the members of the Senate and the House to listen. These small business people are the innovators and the job creators. They are the ones on the front lines who have to wade through government rules and regulations every day, pay the taxes, and still find a way to compete in domestic and international markets.

If we are interested in economic growth and opportunity in this country—if we want an economy that is healthy and creating new jobs, and can compete around the world—we ought to take note of what small businessmen and women have to tell us.

And, Mr. President, this is what the delegates to the White House Conference had to say—these are the top-ten vote-getting resolutions approved by the Conference:

No. 1: Clarify the definition of independent contractor for tax purposes—1,471 votes. The Conference called on Congress to recognize the legitimacy of an independent contractor; to develop more realistic and consistent guidelines for IRS auditors, courts, employers and State agencies to follow.

No. 2: Permit a 100 percent deduction for business meal and entertainment expenses—1,444 votes. Small businesses typically rely on close personal relationships and customer service to compete for sales, rather than expensive advertising campaigns. Expenditures for meals and entertainment are often an important part of that effort.

No. 3: Strengthen the Regulatory Flexibility Act—1,398 votes. In addition to making the act applicable to all Federal agencies, the Conference recommended that cost-benefit analyses, scientific benefit analyses, and risks assessments be required.

No. 4: Repeal the Federal estate, gift, and generation-skipping transfer tax laws—1,385 votes. As the members of the Conference noted in their resolution, ''the negative effect (of these transfer taxes) on small business, and others, far exceeds the net income to the Government when all administrative costs to individuals, businesses, and government are considered.''

No. 5: Reform the Superfund law—1,371 votes. Delegates recommended the elimination of retroactive and strict liability prior to 1987, and called for sound science, realistic risk assessments, and cost-benefit analyses in assessing health and environmental hazards.

Mr. President, we ought to act promptly on all of these issues; bring them to the floor, debate them and vote on each of them at the earliest date practicable. I wanted to begin today, however, by speaking about one of the top five resolutions in particular, the one that received the fourth highest number of votes, a resolution that endorsed the Family Heritage Preservation Act, S. 628.

I introduced that measure earlier this year with the distinguished Senator from North Carolina, Senator HELMS. Representative CHRIS COX introduced the companion bill in the House of Representatives.

The Federal estate tax is actually one of the most wasteful and unfair taxes on the books today, and it is no wonder that small business leaders are urging its repeal. By confiscating up to 55 percent of a family's after-tax savings, it penalizes people for a lifetime of hard work, savings, and investment. It hurts small business and costs jobs. The result is that people spend their time, energy, and money trying to avoid the tax—for example, by setting up trusts and other devices—rather than devoting their resources to more productive economic uses.

The estate tax hits small family businesses particularly hard. It strips companies of much-needed capital at the worst possible time—under a change of ownership and oversight following the principle owner's death.

According to a 1993 survey by Prince and Associates—a Stratford, CT research and consulting firm—9 out of 10 family businesses that failed within 3 years of the principal owner's death said that ''trouble paying estate taxes'' contributed to their companies' demise. Sixty percent of family-owned businesses fail to make it to the second generation, and 90 percent do not make it to a third generation.

If the Tax Code were revised to eliminate these transfer taxes, small businesses would have a fighting chance; and the Nation would likely experience significant economic benefits by the year 2000. According to a report by the Institute for Research on the Economics of Taxation [IRET] ''GDP would be $79.22 billion greater, 228,000 more people would be employed, and the amount of accumulated savings and capital would be $630 billion larger than projected under present law'' by the end of the century.

Small business leaders recognize how counterproductive the estate tax really is, and that's why they specifically endorsed the Family Heritage Preservation Act at the White House Conference. That's why my bill is supported by the Small Business Council of America, the Small Business Survival Committee, Americans for Tax Reform, and the 60 Plus Association. The National Federation of Independent Business and the Independent Forest Products Association have called for estate tax reform.

Mr. President, I want to conclude by thanking the delegates to the White House Conference for their thoughtful, hard work. And, I wanted to make special note of the work of Mary Lou Bessette, who chaired the Arizona State delegation and carried out her responsibilities in an exemplary manner. She kept the group focused and on track, and was well respected by its members. Another member of the delegation, Sandy Abalos, served as Arizona tax chair. Her hard work and determination were reflected in the successful outcome of the Conference.

And finally, I wanted to commend Joy Staveley, who was my appointment to the Conference, and who served as environmental chair for the State. All four of her environmental resolutions made it into the top 60 final recommendations to emerge from the Conference session.

A job well done to all the members of Arizona's delegation and to all the delegates from around the country. Now it's time for the Senate and House to act on the good advice from the leaders of the Nation's small businesses. I invite my colleagues to join me as a cosponsor of the Family Heritage Preservation Act, and to begin addressing the other recommendations of the White House Conference as well.●

THE 25TH ANNUAL IRISH HERITAGE FESTIVAL

● Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995, the Garden State Arts Center in Holmdel, NJ, began its 1995 Spring Heritage Festival Series. This heritage festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic

backgrounds that are a part of our collective heritage. Additionally, the spring heritage festivals will contribute proceeds from their programs to the Garden State Arts Center's cultural center fund which presents theater productions free of charge to New Jersey's school children, seniors, and other deserving residents. The heritage festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Sunday, June 25, 1995, the heritage festival series will celebrate the 25th annual Irish Heritage Festival. Twenty-five years ago, when John Gallagherr chaired the very first Irish Heritage Festival, he initiated what has become a grand tradition. This year's celebration, chaired by Kathleen Hyland continues this tradition of highlighting Irish entertainers, food, and crafts, THe day begins early in the morning with a piping competition and will feature traditional Irish sports like hurling and Gaelic football. Additionally, a concelebrated liturgy with Msgr. Kevin Flanagan of St. Peter's Roman Catholic Church, in Parsippany assisted by numerous Irish clergy from throughout New Jersey, will be offered for lasting peace and justice in Ireland. After the liturgy a noon mall show will feature many gifted Irish entertainers including: Daniel O'Donnell, Celtic Cross, Richie O'Shea, Willie Lynch, Barley Bree, Mary McGonigle, and Mike Byrne Band. Over 25,000 people are expected to turnout to eat good food, enjoy traditional music and dance, and to avail themselves of the opportunity to pay tribute to their Irish heritage.

On behalf of the almost 1 million New Jerseyans of Irish descent, who contribute so much energy and vitality to my great and diverse State, I offer my congratulations on the occasion of the 25th annual Irish Heritage Festival.●

CAMBODIA

● Mr. THOMAS. Mr. President, I would like to make a brief comment today about a recent development in Cambodia which I believe does not bode well for the emergent democracy in that country. Last Monday, June 19, the Cambodian National Assembly expelled the representative of northern Siem Reap khet and an outspoken critic of corruption in his country's government, former Finance Minister Sam Rainsy. The move was to be officially announced today.

Cambodia held its first democratic elections in May 1993, under the guidance of the U.N. Transitional Authority. The fragile multiparty coalition that emerged, less a result of electoral processes than power politics and accommodations among the different factions, has depended for its survival mainly on the expedient relationship between the co-prime ministers: Prince Norodom Ranariddh of the Royalist National United Front for an Independent Neutral Peaceful and Cooperative Cambodia [FUNCINPEC] and Hun Sen of the Cambodian People's Party [CPP]. Since 1993, outside observers have often characterized the growth of democracy there as two steps forward, one step back.

Mr. President, the expulsion of Rainsy is just one such step backward. Rainsy was a founding member of FUNCINPEC, and was appointed the party's second representative to the Supreme National Council—the pre-election transitional governing body. As the first Finance Minister in the newly established government, Sam Rainsy won praise for successfully balancing the country's first budget. Unfortunately for him, he was also a critic of the country's pervasive and entrenched political corruption which brought him into conflict with members of his own, as well as other parties. He complained publicly that Cambodia's banking system was riddled with corruption and that most private banks were simply fronts for money laundering. His decision to contract with a French company—Total—to promote efficiency in the country's kickback-racked oil distribution system brought him into a jurisdictional dispute with the CPP-headed Commerce Ministry, and made enemies of some powerful and politically influential distributors. Similarly, his decision to take on Thai Boon Rong Co. over the latter's attempts to extract payments from vendors in the Olympic Marketplace made him few high placed friends.

Rainsy's continuing allegations became sufficiently embarrassing to the powers-that-be that he was fired from the Cabinet in October last year. Although fired from the Cabinet, Rainsy became even more vocal in his criticisms. For example, he led an attempt in the assembly to review a series of nontransparent contracts between the government and several influential private contractors, but was rebuffed. Still apparently uncomfortable with Rainsy's position, Prince Ranariddh —in a move that many analysts saw as a power play, a flexing of his political muscle as leader of FUNCINPEC—lobbied to have Rainsy ousted from the party as well. He was successful, and Rainsy was expelled in May.

Things did not stop there, though. Ranariddh then sought to have Rainsy expelled from Parliament on the grounds that he was elected as a member of a specific party and that, having decided to leave that party, should not be allowed to keep his seat. At one point, he even threatened to resign if Rainsy was not expelled. Rainsy waged an international campaign to retain his seat, arguing that he was elected by the voters of Siem Reap to represent them and not the party. He was not successful, however. Rainsy was expelled by a 9 to 3 vote by a permanent committee of the assembly headed by assembly Chairman Chea Sim, his deputy, and several standing committee chairmen.

I view this move with great concern. Mr. President, this situation would be analogous to a Member of the U.S. House of Representatives deciding to vote against the party line or change her party affiliation—a move with which we are not unfamiliar—and consequently being unseated and replaced by the House leadership. The move was made without a vote of the assembly, or recourse to the Member's constituency; in fact, that the vote would be on the committee agenda was secret from its members until they had gathered to vote on unrelated legislation. Moreover, yesterday a report in the Hong Kong press indicated that at least two of the deputies whom purportedly signed the expulsion petition—Prince Norodom Sirivut and another MP who preferred to remain anonymous—have said they did no such thing. This is not how representative government works.

The point behind the expulsion is clear: internal discontent with the leader of the government will not be tolerated. The move is sure to have a chilling effect on other MP's who do not toe the exact party line such as Ieng Muli, the present Information Minister and member of the Buddhist Liberal Democratic Party. It also signals a severe blow to what many saw as the only opposition voice to the government outside the Khmer Rouge. I fear that it signals the transformation of the National Assembly from an open deliberative body into one that simply serves to rubber-stamp the decisions of the leadership. As one MP put it, if the No. 2 man in the country's largest party can be brought down, regardless of the wishes of his constituents, solely for the reason of expressing his personal and political opinions, then who is safe?

Mr. President, I realize that my disapproval will likely mean little to the forces allied against Sam Rainsy. But they should know that I and other Members are watching them closely, and with each increasing threat they pose to democracy there they make one less friend here, and make much less likely the coming forth of support—economic or otherwise—for their country.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate proceed to executive session and immediately proceed to executive calendar nomination numbers 196 through 204, and all nominations be placed on the Secretary's desk in the Air Force, Army, Navy, en bloc; I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relating to

the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action and that the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. James L. Jamerson, 000–00–0000, United States Air Force.

ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Kenneth R. Wykle, 000–00–0000, United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Hubert G. Smith, 000–00–0000, United States Army.

The following United States Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under Title 10, United States Code, sections 3385, 3392 and 12203(a).

To be major general

Brig. Gen. Crayton M. Bowen, 000–00–0000
Brig. Gen. James D. Davis, 000–00–0000
Brig. Gen. Robert J. Mitchell, 000–00–0000
Brig. Gen. John E. Prendergast, 000–00–0000
Brig. Gen. Robert E. Schulte, 000–00–0000
Brig. Gen. Walter L. Stewart, Jr., 000–00–0000
Brig. Gen. Carroll Thackston, 000–00–0000

To be brigadier general

Col. Lance A. Talmage, Sr., 000–00–0000
Col. Robert A. Morgan, 000–00–0000
Col. John E. Blair, 000–00–0000
Col. Phillip O. Peay, 000–00–0000
Col. Robert D. Whitworth, 000–00–0000
Col. Ronald W. Henry, 000–00–0000
Col. Vandiver H. Carter, 000–00–0000
Col. Troy B. Oliver, 000–00–0000
Col. Don C. Morrow, 000–00–0000
Col. Smythe J. Williams, 000–00–0000
Col. William W. Austin, 000–00–0000
Col. Jean A. Romney, 000–00–0000
Col. James T. Dunn, 000–00–0000
Col. Paul T. Ott, 000–00–0000
Col. Reid K. Beveridge, 000–00–0000
Col. Bertus L. Sisco, 000–00–0000
Col. Jim E. Morford, 000–00–0000
Col. Willie A. Alexander, 000–00–0000
Col. Steven P. Solomon, 000–00–0000
Col. Jerry V. Grizzle, 000–00–0000
Col. James V. Torgerson, 000–00–0000

NAVY

The following-named Rear Admirals (lower half) in the line of the United States Navy for promotion to the permanent grade of Rear Admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Charles Stevens Abbot, 000–00–0000, U.S. Navy
Rear Adm. (lh) Michael Lee Bowman, 000–00–0000, U.S. Navy
Rear Adm. (lh) Frank Matthew Dirren, Jr., 000–00–0000, U.S. Navy
Rear Adm. (lh) Marsha Johnson Evans, 000–00–0000, U.S. Navy
Rear Adm. (lh) Henry Collins Giffin, III, 000–00–0000, U.S. Navy
Rear Adm. (lh) Lee Fredric Gunn, 000–00–0000, U.S. Navy
Rear Adm. (lh) Michael Donald Haskins, 000–00–0000, U.S. Navy
Rear Adm. (lh) Henry Francis Herrera, 000–00–0000, U.S. Navy
Rear Adm. (lh) Francis William Lacroix, 000–00–0000, U.S. Navy
Rear Adm. (lh) Thomas Fletcher Marfiak, 000–00–0000, U.S. Navy
Rear Adm. (lh) Richard Willard Mies, 000–00–0000, U.S. Navy
Rear Adm. (lh) Robert Joseph Natter, 000–00–0000, U.S. Navy
Rear Adm. (lh) Robert Michael Nutwell, 000–00–0000, U.S. Navy
Rear Adm. (lh) James Gregory Prout III, 000–00–0000, U.S. Navy
Rear Adm. (lh) James Reynolds Stark, 000–00–0000, U.S. Navy
Rear Adm. (lh) Robert Sutton, 000–00–0000, U.S. Navy
Rear Adm. (lh) Jay Bradford Yakeley III, 000–00–0000, U.S. Navy

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Paul Matthew Robinson, 000–00–0000, U.S. Navy

The following-named captains in the staff corps of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualification therefore as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Michael Lynn Cowan, 000–00–0000, United States Navy

SUPPLY CORPS

To be rear admiral

Capt. Raymond Aubrey Archer III, 000–00–0000, United States Navy
Capt. Justin Daniel McCarthy, 000–00–0000, United States Navy
Capt. Paul Oscar Soderberg, 000–00–0000, United States Navy

CIVIL ENGINEERING CORPS

To be rear admiral (lower half)

Capt. Robert Lewis Moeller, 000–00–0000, United States Navy
Capt. Michael William Shelton, 000–00–0000, United States Navy

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Capt. Harold Edward Phillips, 000–00–0000, United States Navy

MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Paul K. Van Riper, 000–00–0000

The following named officer for reappointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Charles E. Wilhelm, 000–00–0000

The following named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Carl E. Mundy, Jr., 000–00–0000, United States Marine Corps.

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, NAVY

Air Force nominations beginning Danny N. Armstrong, and ending James R. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of April 24, 1995

Air Force nominations beginning Maj. William M. Altman, III, and ending Maj. Philip M. Abshere, which nomination were received by the Senate and appeared in the Congressional Record of May 23, 1995

Army nominations beginning Richard F. Anderson, and ending Igwekala E. Njoku, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning Ronald C. Bredlow, and ending Kay F. Stanton, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning James E. Agnew, and ending Jeffrey M. Young, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning Robert T * Aarhus, and ending Annette L * Wuest, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations of Robert G. Kowalski, which was received by the Senate and appeared in the Congressional Record of May 23, 1995

Army nominations beginning Joseph F. Miller, and ending Douglas A. Schow, which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1995

Foreign Service nominations beginning Robert A. Kohn, and ending Robert A. Taft, which nominations were received by the Senate and appeared in the Congressional Record of March 23, 1995

Foreign Service nominations beginning Judith A. Futch, and ending Joy Ona Yamamoto, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1995

Navy nominations beginning Vincent John Andrews, and ending Jerry F. Rea, which nominations were received by the Senate and appeared in the Congressional Record of March 23, 1995

Navy nominations beginning Robert J. Adams, and ending Georgene B. Waecker, which nominations were received by the Senate and appeared in the Congressional Record of April 24, 1995

Navy nominations beginning Milton D. Abner, and ending Thomas G. Warner, which nominations were received by the Senate and appeared in the Congressional Record of Ma, 1995

Navy nominations beginning Camilo L. Abalos, and ending Charlotte A. Thompson, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Navy nominations beginning Carlton L. Jones, and ending Patrick C. Wrencher, which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1995

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO PEACE AND STABILITY IN THE SOUTH CHINA SEA

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of calendar number 129, Senate Resolution 97.

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

The legislative clerk read as follows:

A resolution (S. Res. 97) expressing the sense of the Senate with respect to peace and stability in the South China Sea.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations with amendments; as follows:

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. RES. 97

Whereas the South China Sea is a strategically important waterway through which transits approximately 25 percent of the World's ocean freight, including almost 70 percent of Japan's oil supply;

Whereas the South China Sea serves as a crucial sea lane for naval vessels of the United States and other countries, especially in times of emergency;

Whereas the People's Republic of China, the Republic of the Philippines, the Socialist Republic of Vietnam, the Republic of China on Taiwan, the State of Brunei Darussalam, and Malaysia have overlapping and mutually exclusive claims to portions of the South China Sea, especially in the Spratly Island group;

Whereas some of the nations which have claims to portions of the South China Sea are modernizing their military forces, strengthening their ability to project power outside their domestic boundaries, and consequently, are altering the strategic balance of power in the region;

Whereas this power projection capability further drives the concern of nations with territorial claims over acts of aggression in the South China Sea by other nations with claims;

Whereas these competing claims have led to armed conflicts between several of the claimants;

Whereas these conflicts threaten the peace and stability of all of East Asia; and

Whereas the 1992 Manila Declaration of the Association of South East Asian Nations, also recognized by the Socialist Republic of Vietnam and the People's Republic of China, calls on the claimants to exercise restraint and seek a peaceful negotiated solution to the conflicts: Now, therefore, be it

Resolved, That the Senate—

(1) **[**urges the executive branch to reiterate**]** *reiterates* to the claimants in the South China Sea that the United States does not take a position on any individual claim;

(2) calls upon all of the claimants to refrain from using military force *or similarly aggressive action* to assert or expand territorial claims in the South China Sea;

(3) urges the executive branch to declare the active support of the United States for the 1992 Manila Declaration of the Association of South East Asian Nations, and calls upon all the claimants to observe faithfully its provisions; and

[(4) calls upon the claimants to scrupulously observe the January, 1995 status quo ante pending any negotiations or resolution of the conflicts between such claimants over such claims.**]**

(4) would view with profound concern and disapproval any maritime claim or restriction on maritime activity in the South China Sea not strictly consistent with international law.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the resolution, as amended, be considered and agreed to, the preamble as amended be agreed to, and the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 97), as amended, was considered and agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

The resolution was not available for printing. It will appear in a future issue of the RECORD.

ORDER FOR STAR PRINT—REPORT TO ACCOMPANY S. 240

Mr. D'AMATO. Mr. President, I ask unanimous consent that the report accompanying S. 240 be star printed to reflect the following changes, which I now send to the desk.

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

ORDERS FOR FRIDAY, JUNE 23, 1995

Mr. D'AMATO. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m., on Friday, June 23, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each with the exception of the following: Senator DORGAN, 20 minutes, and Senator BAUCUS, 10 minutes.

Further, that at the hour of 9:30 the Senate resume consideration of S. 240, the securities litigation bill and that Senator SHELBY be immediately recognized to offer an amendment relating to proportional liability, and that at the hour of 10:55 a.m., the Senate proceed to a vote on or in relation to the Shelby amendment.

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

PROGRAM

Mr. D'AMATO. For the information of all Senators, the Senate will resume consideration of the securities bill tomorrow at 9:30. Under the previous order the Senate will vote on or in relation to the Shelby amendment regarding proportional liability at 10:55 a.m.

RECESS UNTIL 9 A.M. TOMORROW

Mr. D'AMATO. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:34 p.m., recessed until Friday, June 23, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1995:

THE JUDICIARY

TENA CAMPBELL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH, VICE BRUCE S. JENKINS, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1995:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. JAMES L. JAMERSON, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. KENNETH R. WYKLE, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HUBERT G. SMITH, 000–00–0000

THE FOLLOWING UNITED STATES ARMY NATIONAL GUARD OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE SECTIONS 3385, 3392 AND 12203(A):

To be major general

BRIG. GEN. CRAYTON M. BOWEN, 000–00–0000
BRIG. GEN. JAMES D. DAVIS, 000–00–0000
BRIG. GEN. ROBERT J. MITCHELL, 000–00–0000
BRIG. GEN. JOHN E. PRENDERGAST, 000–00–0000
BRIG. GEN. ROBERT E. SCHULTE, 000–00–0000
BRIG. GEN. WALTER L. STEWART, JR., 000–00–0000
BRIG. GEN. CARROLL THACKSTON, 000–00–0000

To be brigadier general

COL. LANCE A. TALMAGE, SR., 000–00–0000
COL. ROBERT A. MORGAN, 000–00–0000
COL. JOHN E. BLAIR, 000–00–0000
COL. PHILLIP O. PEAY, 000–00–0000
COL. ROBERT D. WHITWORTH, 000–00–0000
COL. RONALD W. HENRY, 000–00–0000
COL. VANDIVER H. CARTER, 000–00–0000
COL. TROY B. OLIVER, 000–00–0000
COL. DON C. MORROW, 000–00–0000
COL. SMYTHE J. WILLIAMS, 000–00–0000
COL. WILLIAM W. AUSTIN, 000–00–0000
COL. JEAN A. ROMNEY, 000–00–0000
COL. JAMES T. DUNN, 000–00–0000
COL. PAUL T. OTT, 000–00–0000
COL. REID K. BEVERIDGE, 000–00–0000
COL. BERTUS L. SISCO, 000–00–0000
COL. JIM E. MORFORD, 000–00–0000
COL. WILLIE A. ALEXANDER, 000–00–0000
COL. STEVEN P. SOLOMON, 000–00–0000
COL. JERRY V. GRIZZLE, 000–00–0000
COL. JAMES V. TORGERSON, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) CHARLES STEVENS ABBOT, 000–00–0000
REAR ADM. (LH) MICHAEL LEE BOWMAN, 000–00–0000
REAR ADM. (LH) FRANK MATTHEW DIRREN, JR., 000–00–0000

REAR ADM. (LH) MARSHA JOHNSON EVANS, 000–00–0000
REAR ADM. (LH) HENRY COLLINS GIFFIN, III, 000–00–0000
REAR ADM. (LH) LEE FREDRIC GUNN, 000–00–0000
REAR ADM. (LH) MICHAEL DONALD HASKINS, 000–00–0000
REAR ADM. (LH) HENRY FRANCIS HERRERA, 000–00–0000
REAR ADM. (LH) FRANCIS WILLIAM LACROIX, 000–00–0000
REAR ADM. (LH) THOMAS FLETCHER MARFIAK, 000–00–0000
REAR ADM. (LH) RICHARD WILLIAM MIES, 000–00–0000
REAR ADM. (LH) ROBERT JOSEPH NATTER, 000–00–0000
REAR ADM. (LH) ROBERT MICHAEL NUTWELL, 000–00–0000
REAR ADM. (LH) JAMES GREGORY PROUT, III, 000–00–0000
REAR ADM. (LH) JAMES REYNOLDS STARK, 000–00–0000
REAR ADM. (LH) ROBERT SUTTON, 000–00–0000,
REAR ADM. (LH) JAY BRADFORD YAKELEY, III, 000–00–0000

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) PAUL MATTHEW ROBINSON, 000–00–0000

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. MICHAEL LYNN COWAN, 000–00–0000

SUPPLY CORPS

To be rear admiral

CAPT. RAYMOND AUBREY ARCHER III, 000–00–0000
CAPT. JUSTIN DANIEL MC CARTHY, 000–00–0000
CAPT. PAUL OSCAR SODERBERG, 000–00–0000

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. ROBERT LEWIS MOELLER, 000–00–0000
CAPT. MICHAEL WILLIAM SHELTON, 000–00–0000

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

CAPT. HAROLD EDWARD PHILLIPS, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL K. VAN RIPER, 000–00–0000

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES E. WILHELM, 000–00–0000

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CARL E. MUNDY, JR., 000–00–0000

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING DANNY N. ARMSTRONG, AND ENDING JAMES R. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 24, 1995.

AIR FORCE NOMINATIONS BEGINNING MAJOR WILLIAM M. ALTMAN III, AND ENDING MAJOR PHILIP M. ABSHERE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING RICHARD F. ANDERSON, AND ENDING IGWEKALA E. NJOKU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING RONALD C. BREDLOW, AND ENDING KAY F. STANTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING JAMES E. AGNEW, AND ENDING JEFFREY M. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING *ROBERT T. AARHUS, AND ENDING *ANNETTE L. WUEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATION OF ROBERT G. KOWALSKI, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1995.

ARMY NOMINATIONS BEGINNING JOSEPH F. MILLER, AND ENDING DOUGLAS A. SCHOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING VINCENT J. ANDREWS, AND ENDING JERRY F. REA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 23, 1995.

NAVY NOMINATIONS BEGINNING ROBERT J. ADAMS, AND ENDING GEORGENE B. WAECKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 24, 1995.

NAVY NOMINATIONS BEGINNING MILTON D. ABNER, AND ENDING THOMAS G. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 11, 1995.

NAVY NOMINATIONS BEGINNING CAMILO L. ABALOS, AND ENDING CHARLOTTE A. THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

NAVY NOMINATIONS BEGINNING CARLTON L. JONES, AND ENDING PATRICK C. WRENCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 22, 1995, withdrawing from further Senate consideration the following nomination:

U.S. MARINE CORPS

I WITHDRAW THE NOMINATION OF:

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601, WHICH WAS FORWARDED ON MAY 15, 1995:

To be lieutenant general

LT. GEN. GEORGE R. CHRISTMAS 000–00–0000

EXTENSIONS OF REMARKS

AMERICA NEEDS THE MARITIME SECURITY ACT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMON. Mr. Speaker, 50 years ago our world was entrenched in a brutal world war that transformed many facets of the global arena. We would not have won World War II if it were not for the strength of the U.S. merchant marine. If our Nation is to continue being a world leader, we must strengthen our merchant marine fleet. Once the largest in the world, the 5,000-ship fleet has been diminished to a mere 375 ships. We as a nation cannot afford to lose anymore ground to the countries who are taking over the worlds oceans.

Many people ask where a threat is coming from that justifies the cost of strengthening the U.S. merchant marine. I would answer that question with a question. Think back to the night of November 9, 1989, just 6 years ago, when we all rejoiced to see the Berlin Wall being breached and the many Berliners who were dancing at the Brandenburg Gate.

On that night when we celebrated the lifting of the Iron Curtain in Europe and the downfall of the former Soviet Empire, who could have imagined that only 14 months later more than 1 million troops would be poised for battle in the Persian Gulf? Who could have imagined that the United States and its allies would shortly have to begin the largest logistical movement of troops and material since World War II?

My point is simply this: The world remains an extraordinarily dangerous and unpredictable place. There is room for legitimate argument about what the specific priorities in the defense budget should be. But there can be little doubt that we are rapidly reaching the point where America's defense maritime capabilities will be in real jeopardy. This is a risk our country cannot afford to take and we should do anything in our power to see to it that America never repeats the mistakes of the past, the mistakes that produced a hollow military as recently as the late 1970's.

A strong U.S. flag ship fleet will also lead to many economic benefits for our Nation. The creation of over 100,000 at sea and ashore would bring in over $4.5 billion in household earnings. With major seaports on three coasts, there is no reason why there should not be hundreds of ships being built. At the present time there are only two ships being built in U.S. ports. This production level puts the United States behind Brazil, Croatia, and even Romania in shipbuilding. We cannot afford to lose the technological shipbuilding capabilities that we have at our disposal in America.

If something is not done today to strengthen our merchant marine fleet, the size of the fleet could drop to 100 ships. We are already 16th in the world in fleet size and we simply cannot drop any further. No world power has ever survived without a merchant fleet and we cannot afford to lose more ground in the global competition.

That is why Congress is now taking steps to fortify our Nation's merchant marine. House Resolution 1350—the Maritime Security Act—which I wholeheartedly support and have sponsored, will stabilize our national security fleet. This bill proposes that $2 million be set aside each year for 10 years in order to increase the amount of merchant vessels in the U.S. fleet. This same bill passed the House last year, but stalled in the Senate. This year, however, Senator TRENT LOTT has spearheaded the drive to get this bill through the Senate and he believes that this year will be different.

Aside from creating hundreds of thousands of jobs and enhancing our economic base in the maritime industry, the Maritime Security Act will ensure security overseas for all American citizens who depend on the merchant marines. During the Persian Gulf war over 20 percent of goods, ammunition, and supplies were transported on foreign subsidized flag ships. Some of these ships refused to enter into enemy waters to deliver vital goods to our soldiers. This fact is frightening. If we do not strengthen our merchant marine fleet, we will be putting our men and women in the Armed Forces in tremendous danger.

The United States must have a strong fleet of American ships with American trained crews to supply our troops in the event of an emergency or war. During World War II, our own merchant fleet with its American crews sacrificed their lives to provide their comrades in foreign lands with needed supplies. We need to have that security in today's world also, for there are thousands of men and women in the Armed Forces overseas who must not be neglected.

The United States has many global interests that must be preserved. In order to maintain these interests and further America's lead in the global sphere, we must have access to foreign markets through the oceans. The Maritime Security Act will be the first step toward accomplishing that goal by strengthening America's merchant marine fleet. I urge support for this vital legislation.

THE PRESIDENT'S BALANCED BUDGET PLAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 21, 1995 into the CONGRESSIONAL RECORD.

THE PRESIDENT'S BALANCED BUDGET PLAN

In a nationally televised speech President Clinton recently joined congressional leaders in calling for an historic reduction in the federal budget deficit and for a reduction in the size of government. He stepped from the sidelines on the budget debate and laid out a ten-year route to a balanced budget which dramatically scales back much of what government does. He wants to balance the budget by the year 2005 while still investing in education and training, taking serious steps toward health care reform while protecting its beneficiaries, and targeting modest tax cuts to working families. He calls for real cuts in most areas of government spending other than Social Security.

DIFFERENCES

Although the President and congressional leadership agree on the broad outlines of balancing the budget, many differences remain. President Clinton would balance the budget over ten years; their plan says seven. He would cut taxes only for the middle class; the House leadership would also cut taxes for upper-income taxpayers. And their tax cuts would be much more costly—$350 billion versus the $96 billion the President proposes. The President eliminates $25 billion in corporate subsidies; they would not. He trims spending for the poor while they cut it sharply. He squeezes Medicare and Medicaid; they cut back these programs much more. Both he and the congressional leadership reach a balanced budget by making fairly optimistic economic projections, such as assuming that interest rates will fall sharply.

The President increases spending on education, training, and medical and scientific research, areas the congressional leadership would cut. On health care the President offers a plan far less ambitious than his original health care reform proposal of a year ago. But he does propose to save $124 billion from Medicare and $55 billion from Medicaid; the congressional leadership's cutbacks would be more than twice as much. He reaches the Medicare savings by reducing growth in health care costs, not by asking beneficiaries to pay more.

NEW STRATEGY

The President has clearly chosen the path of conciliation as a better way for him than continued confrontation with the congressional leadership. He dropped his stand-pat budget which he submitted to Congress in February and joins the chorus to eliminate the deficit. The President has received sharp criticism from some members of his own party as well as some indications of openness from the congressional leadership. He is positioning himself as an independent, centrist leader. He has rightly rejected the strategy of just counterpunching against congressional budget proposals and has indicated that he believes a President's responsibilities rise above politics to leadership.

GROWING CONSENSUS

There isn't any doubt that Congress and the President are now very serious about bringing the budget into balance. That means the question is not whether to balance the budget into balance. That means the question is not whether to balance the budget but when and how. This is good news. The federal budget has been in the red every year but one, 1969, since the Eisenhower Administration. Public opinion polls which show 80% of the American people favoring a balanced budget have had a strong impact. But quite apart from politics, the economic arguments for a balanced budget are also

very strong. Consistently large budget deficits endanger the country's economic future and cheat future generations of Americans. Balancing the budget will increase national savings and that means greater national investment in physical, human, and technological capital. That in turn will increase productivity and boost incomes for Americans.

Many Americans believe that balancing the budget is not just an economic issue but almost a moral issue—that the government's inability to balance the budget means the country has lost a moral sense of fiscal responsibility. They see the huge deficits as shifting the burden to the next generation. Others look at deficits as shifting the burden to the next generation. Others look at deficits in more practical terms. They see no great harm with a deficit in any one year, but believe the continuing deficits undermine the economic underpinnings of the country. So a growing consensus has come to the view that deficit spending must end.

The details of balancing the budget still remain. In the current political climate neither Social Security nor defense spending can be cut and taxes cannot be raised. That puts enormous pressure on a rather small part of the government's total budget composed of Medicare, Medicaid, and other social welfare programs. Rather than gutting important programs such as health care for older Americans, our emphasis needs to be on reforms to make government work better and cost less.

ASSESSMENT

I think the President's new position on the budget is much better than his old one. He now wants to continue the deficit reduction that he started in the first two years of his administration, but he wants to do it more gently than others have proposed. Cutting the deficit too hard too fast could lead to a lot of pain which could undermine political support for a balanced budget. The President believes that a more gradual approach increases the chances of getting to a balanced budget.

I believe that both the congressional leadership and the President are wrong in providing for tax cuts now. The President's tax cut is much smaller and more targeted than the congressional leadership's. By the stretchout in years and the smaller tax cut he gets to his goal of a balanced budget without cutting as much from important programs like Medicare. But I believe any tax cut at this time is a bad idea. It does not make sense to me to borrow more money to provide a tax cut now. It is better to cut the spending, get the budget into balance, and then give ourselves a tax cut. We simply make the problem much more difficult if we add to the deficit we want to reduce.

Although I disagree with some of its specifics, I think the President has put forth a sensible plan for budgetary discipline. I am pleased to see that both parties are now on the same course. At the same time, no one should think the battle has been won. Much of the budget debate from this point on will be seen more as a skirmish over details, but some major decisions still lie ahead.

TRIBUTE TO MAJ. GEN. ENOCH H. WILLIAMS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TOWNS. Mr. Speaker, I rise today with pleasure to pay tribute to an extraordinary public servant from Brooklyn, NY—Maj. Gen. Enoch H. Williams. General Williams retired as Commander of the New York Army National Guard on May 31, 1995, after over 30 years of active military service.

Major General Williams earned his commission in 1950 after serving as an enlisted member during World War II. Rising from the rank of second lieutenant to colonel, he served in many positions, among them—artillery officer, transportation officer, liaison to the Deputy Chief of Staff for Logistics, and Commander of Selective Service, and Headquarters Detachment. General Williams was appointed Commander of the New York Army National Guard in 1990. His military education includes Field Artillery School, the Air Defense School Command and General Staff Colllege, and the Industrial War College. Military decorations General Williams has earned include the Legion of Merit, Army Commendation Medal, and both the Bronze and Silver Selective Service System Meritorious Service Medals.

General Williams received a B.S. in business management from Long Island University. He also attended New York University and the New School for Social Research.

In his civilian occupation, General Williams is serving his fifth term as a New York City councilman, representing the 41st Councilmanic District. The 41st district covers the multiethnic Brooklyn communities of Bedford-Stuyvesant, Brownsville, East Flatbush, and Crown Heights. General Williams also gives freely of his time to serve in many governmental positions. He is a member of the American Institute of Housing Consultants, Community Service Society, and the New York Urban League. He is currently civilian director of the New York City Selective Service System. General Williams' dedicated service to the U.S. military merits special recognition. I take great pleasure and pride in entering these words of commendation into the RECORD.

IN TRIBUTE TO LT. GEN. CHARLES DOMINY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WOLF. Mr. Speaker, I am pleased to rise today to recognize the service of Lt. Gen. Charles E. Dominy to the U.S. Army and to our Nation as he prepares to retire.

General Dominy's career in the Army has spanned 33 years, including his service as a cadet at the U.S. Military Academy. During these three decades he has served our Nation in a number of important capacities. In his final assignment prior to retirement, General Dominy serves as chief of the Army legislative liaison and as director of the U.S. Army staff, a position from which he has had to confront the numerous issues and developments surrounding the Armed Forces in the 1990's. His work has received widespread praise and commendation.

As chief of the Army's Office of Legislative Liaison, he worked with Members of Congress and their staffs on the numerous issues affecting our Nation's military. Before his tenure in Washington, General Dominy was a platoon leader as well as a leader and trainer for Army troops.

Mr. Speaker, I want to thank Lt. Gen. Charles Dominy for all of his dedicated service and hard work, and I am honored to join with his family, friends, and colleagues in recognizing his accomplishments and wishing him well in his future endeavors.

EDSAT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BROWN of California. Mr. Speaker, today Congresswoman CONNIE MORELLA and I will be reintroducing legislation designed to facilitate the development of an integrated, nationwide telecommunications system dedicated to education. This bill would guarantee the acquisition of a satellite system to be used solely for communications among State and local instructional resource providers.

Certainly every student in America deserves equal access to quality education. Unfortunately, not every small rural or poor inner-city school can afford to hire specialized instructors to provide the education for children the way that schools in larger and wealthier communities can.

One way to bridge this gap is through the use of satellite technology for distance learning. With the efficient use of an integrated, satellite-based communications system linked by cable and telephone lines, distance learning can provide children access to vase educational resources, regardless of wealth or geographic location.

I have long been interested in helping to strengthen and improve the utilization of telecommunications in the U.S. economy and educational institutions. The need for a satellite dedicated solely to education programming has been apparent since the issue was raised at the 1989 education summit. Since that time, the nonprofit National Education Telecommunications Organization [NETO], along with its wholly owned subsidiary, the Education Satellite Corporation [EDSAT], has been working to improve the availability of educational programming for schools, universities, and libraries across the country.

The EDSAT Institute found that while the education sector is expanding and investing heavily in telecommunications systems, they are often not able to commit to expensive long-term contracts with satellite providers. This puts them at a competitive disadvantage with other buyers of satellite time. In addition, as occasional users, the education sector is forced to pay high and variable prices for undependable services.

Finally, the current system is set up so that educational programs are often spread out among 12 to 15 satellites. Every time the user wants to switch to a different program, they have to adjust their satellite dish. NETO's goal is to create the infrastructure necessary to establish an integrated telecommunications system at affordable costs to the education sector.

Dedicating a satellite for education and collocating programming that is now scattered across numerous satellites will allow schools to receive far more educational programming—without constantly reorienting their satellite dishes. Collocation will also enhance the

marketing of programming, reduce technical problems, and stabilize the pricing of satellite time.

Federal backing of such a system will not only heighten the educational opportunities for our children, but it will also benefit State and local educational agencies by ultimately reducing their expenses for satellite services and equipment. Further, while distance learning can never replace classroom teachers, it does provide educators with an additional tool with which to teach.

This is just the first step and certainly not the only answer to solving the problems that schools face in using satellites. However, I believe that it is an important step for the Federal Government to take to help encourage the use of technology in the education sector. Improving the accessibility and quality of education will help our children and our national economy as a whole to become stronger and more competitive in the global marketplace.

INTRODUCTION OF LEGISLATION TO ESTABLISH DISTANCE LEARNING THROUGH SATELLITE TECHNOLOGY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. MORELLA. Mr. Speaker, America's distance education programs are in jeopardy. Escalating costs and a decline in the availability of satellite capacity are putting distance learning programs across the country at risk.

The distance education industry in the United States provides a much needed service to health facilities and schools in hard-to-reach areas. More than 90 American colleges provide education and instruction to school districts, colleges, and libraries, nationally and internationally. If we do not address the shortage in satellite capacity and the increased costs, these programs will be curtailed.

The legislation that I am introducing today would create an adequate satellite system dedicated to education. My bill would authorize the Secretary of Commerce to carry out a loan guarantee program under which a nonprofit, public corporation could borrow funds to buy or lease satellites dedicated to instructional programming. Distance learning programs, which are now scattered across numerous satellites, could be collocated into one satellite. This will facilitate access to educational programming, reduce technical problems, and stabilize costs.

A satellite dedicated to education is an obvious way to improve educational opportunities for all Americans. An education satellite would afford students a high quality of education regardless of where they live or how much money they make.

An education satellite will enable students in rural America to take advanced placement chemistry, even though their school district does not have an advanced chemistry teacher. An education satellite will ensure that hearing-impaired students will have access to instructors that are certified in sign language. An education satellite will excite young minds and bring the finest instructors to our inner cities, where they are most needed.

I have long supported the establishment of an education satellite through my involvement with the Education Satellite Corp. [EDSAT], a subsidiary of the nonprofit National Education Telecommunications Organization [NETO]. This organization has been working to enhance educational opportunities for our Nation's students through distance learning technology.

Other countries have education satellites. Japan and Great Britain recognize the important role that television plays in education. Japan relies heavily on in-school use of television to education children, and the British require all stations, commercial and noncommercial, to carry educational and informative programming for children.

An education satellite is in the Nation's best interest. A satellite-based infrastructure dedicated to education will bring equity to our educational system. While distance learning will never replace classroom teachers, it does provide educators with an additional tool with which to teach. An education satellite will afford all Americans the opportunity they deserve to achieve their fullest potential.

PROTECT CALIFORNIA'S ECONOMY AND BEAUTY: KEEP THE BAN ON OFFSHORE OIL DRILLING

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. FILNER. Mr. Speaker, for more than 14 years, Californians have enjoyed protection from the dangers of offshore oil drilling. It is imperative that the moratorium on offshore oil drilling be extended permanently.

This is an issue on which all Californians agree:

First, local, State, and Federal elected officials support the ban: I have been contacted by Governor Wilson, our representatives in the State legislature, and our local city councils in support of extending the ban.

Second, business and environmentalist leaders support the ban: at a recent press conference in San Diego, business, environmental, and tourism officials came together to indicate their support for the permanent extension of the ban on offshore oil drilling.

Third, the voters of San Diego agree: in 1986, more than 75 percent of San Diegans voted in favor of a ban on offshore oil drilling within 100 miles of our coast.

Our key concern is the devastation that oil drilling would cause to San Diego's $3.6 billion-a-year tourism industry! Quite frankly, the small amount of oil that some people guess is available in our kelp beds is simply not worth the damage to our economy that offshore oil drilling would cause.

We all know—no matter how careful we are—accidents happen. We cannot—we will not—accept the risk of offshore oil drilling so that a few large oil companies can add to their wealth. We will not allow the economic and environmental damage caused in Santa Barbara, Prince William Sound, or the Gulf of Mexico to be repeated anywhere on California's coast.

We urge this Congress to act now and protect California's economy and beauty—extend the ban on offshore oil drilling permanently.

INTRODUCTION OF THE CENTRAL VALLEY PROJECT REFORM ACT OF 1995

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DOOLITTLE. Mr. Speaker, today, we are fulfilling another important part of our Contract With America; to bring Government to the people, to respond to their concerns on a bipartisan basis, to make Government more efficient. I have been contacted by members of the public from all sides of the political spectrum to address the issues of CVPIA implementation. There is general agreement that we must break new ground to improve our water management in California. Members on both sides of the aisle are here today to support new ways to approach these problems.

In 1992, Congress passed the Central Valley Project Improvement Act, which substantially altered the way water is managed in California. Among its major provisions, the CVPIA provided for 800,000 acre-feet of water from the CVP to be primarily dedicated to fish and wildlife. It also established the CVP restoration fund and assessed charges against both water and power interests into the fund.

We have spoken with a number of our constituents in California, including irrigation districts, municipalities, environmental organizations and power customers who have expressed concerns about the way certain provisions of the VCPIA are being implemented or interpreted. They would like to see these issues addressed.

It has become increasingly apparent that there are some provisions of the CVPIA that need modification. At the same time, there is recognition by all the parties that now is not the time for radical changes in the act, but rather, for well thought out improvements which ensure that the basic principles of the act are achieved in a manner which meets the real needs of the parties concerned. This bill provides reasonable and badly needed reforms. It also clarifies and builds on the Bay-Delta accord. It will ensure that there is no double-counting of the 800,000 acre-feet of water devoted to environmental programs under the original CVPIA.

Finally, we are returning common sense to the CVPIA in the area of water pricing. It was the stated intent of the CVPIA to create greater incentives for the conservation of water. Implementation of the act discouraged some good water practices. For instance, there are areas served by the Central Valley Project where there is significant overdraft of the aquifers. We need to provide opportunities for the recharge of underground acquifers. Tiered pricing was designed to charge higher prices as more water is used. In a year such as this, when we have significant amounts of water in California, it is foolish to have a policy that discourages a water district from recharing its aquifer.

The reforms we propose today are balanced. They address common sense issues which must be changed. It is a bipartisan bill which will improve California's ability to manage its water.

QUALITY MAMMOGRAPHY FOR OUR VETERANS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DINGELL. Mr. Speaker, I am pleased to add my name as a cosponsor of H.R. 882, which requires the Department of Veterans Affairs, consulting with the Secretary of Health and Human Services, to put in place standards that will ensure quality mammography for our veterans who receive their health care in Veterans Department facilities.

As a principal sponsor of the Mammography Quality Standards Act of 1992, I have been gratified to observe the impact of this legislation. The Department of Health and Human Services, through the Food and Drug Administration, moved quickly to establish and put in place a credible process for accrediting mammography facilities. As of today, more than 90 percent of the mammography facilities in the country have been certified as meeting the standards of the American College of Radiology. With its expert advisory committee, including input from mammography facilities themselves, the FDA continues to work toward development of additional standards as defined in the statute, which will be in place for future inspections and certification of facilities.

Breast cancer is the second leading cause of cancer deaths in American women. The potential success of treating this frightening and devastating illness is in large measure contingent on accurate early diagnosis. Since mammography is a critical and effective method for detecting breast cancer early, it is crucial that this service be available, safe, and accurate. The Mammography Quality Standards Act is intended to achieve this result, and early indications are that it is a whopping success.

The exemption of Veterans Affairs facilities from the requirements of the MQSA should not mean that women who seek mammograms in Veterans Department facilities must fear receiving lower quality service. H.R. 882 seeks to ensure that these facilities are in line with those of the rest of the country, so that our women veterans can be assured of the safest and highest quality mammography.

WALLACE GAILOR, SARATOGA COUNTY'S SANTA CLAUS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMAN. Mr. Speaker, I rise today to pay tribute to a man who has brought joy to the lives of countless children and adults alike in Saratoga County, NY. Wallace Gailor has portrayed a real-life Santa Claus since 1940, over 50 years no. Clearly, he personifies the sense of giving and caring exemplified by the mythical Santa Claus we all adore.

What better way, Mr. Speaker, to spread the spirit of Christmas than to voluntarily entertain one's neighbors for such a prolonged period of time. Much has changed in this country since 1940. However, thanks to Wallace Gailor, the depiction of Santa Claus around the communities of Saratoga County has remained a constant. His faithful service has bridged the gap by retaining those values which are critical for a healthy sense of community. By teaching such traditional American values as voluntarism, selflessness, and generosity, Wallace Gailor exemplifies the things that have made this country great. In the process, Wallace has become not only a great public servant, but a model for the young people of Saratoga County, a critical service in this day and age.

Mr. Speaker, I have always judged people based on how much they return to their community. By that measure, Wallace Gailor is a truly great American. I ask that you and all Members join me now in paying tribute to this real-life Santa Claus. We would all do well to emulate his spirit of community service and giving.

TRIBUTE TO SANFORD RUBENSTEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TOWNS. Mr. Speaker, Sanford A. Rubenstein is the majority leader of the Rockland County legislature. He has served five terms as a country legislator representing the town of Ramapo.

As a practicing lawyer he has been described by Joana Molloy of the New York Post as one of New York's ''High Powered Personal Injury Attorneys.'' Rubenstein, for over 20 years has represented and presently represents victims of the city's most terrible tragedies which have been the subject of headlines in all of New Yorks daily newspapers. He has appeared on numerous television news and talks shows including ''The Phil Donahue Show,'' ''CNN World News,'' ''Sally Jesse Raphael,'' ''Montel Williams,'' ''Good Day New York,'' and ''The McCory Report''. He hosts a weekly Manhattan cable television show called ''Lawyers Corner''. He also has been interviewed by foreign journalists from Melbourne, Australia and by the BBC in England.

He is a member of the board of directors of the New York State Trial Lawyers Association and the board of governors of the Association of Trial Lawyers of the City of New York. He is a trustee of the New York State Democratic Committee.

Rubenstein has been recognized by President Clinton for his work for democracy in Haiti and peace in the Middle East. He is presently working with President Aristide of Haiti on the economic revitalization of that country's badly battered economy.

A TRIBUTE TO JOE KENNEDY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to Mr. Joe Kennedy, who on July 3, will retire from the National Park Service and his position over the last 8½ years as Superintendent of the New River Gorge National River in West Virginia.

It is sad, but true, that many in this body these days take price in denigrating Federal employees, especially those in uniform. I will not be a party to those antics, and committed public servants like Joe Kennedy illustrate the degree of professionalism that swells the ranks of many agencies such as the National Park Service.

Since January 1987, Joe has served with distinction and dedication as the Superintendent of the New River Gorge National River. He arrived at a time when very little in the way of basic infrastructure was in place at the park unit. I am pleased to report that under Joe's leadership, a great deal has been accomplished including the construction of a state-of-the-art visitor center at Canyon Rim, a park headquarters complex at Glen Jean, a boardwalk at Sandstone Falls that is a naturalist's delight, modern river access facilities at Cunard and Fayette Station, the restoration of historic Thurmond, and the establishment of an extensive trail system. During Joe's tenure, he also supervised a very active land acquisition program, and park operations and services improved vastly. These are just a few of his accomplishments.

Throughout this period, Joe Kennedy never shirked from the call of duty, often going above and beyond what was required of him. After moving the park headquarters to Glen Jean, Joe received a phone call from an elderly lady in the community who wanted him to go over to her home and remove a snake that was in the basement. The Superintendent did not hesitate to do so. Moreover, Joe has had the distinction of serving as the Superintendent of not just one, but three, units of the National Park System at the same time. A little more than 1 year after arriving at West Virginia, through my efforts, Congress passed legislation to establish the Gauley River National Recreation Area and the Bluestone National Scenic River on tributaries of the New River. Joe has served as the Superintendent of all three park units, making him the ''River King'' of the National Park Service.

Joe Kennedy now retires after serving the public as an employee of the National Park Service for 34 years. Starting his career at Kings Mountain National Military Park in South Carolina during July 1961, he then served briefly at Fort Pulaski National Monument in Georgia before being transferred to the Nation's Capital in July 1964 where he worked at the Department of the Interior until October 1968. After that, he headed south again and served at the Everglades National Park until October 1971 when he heeded that age old call of ''go West young man.'' Between October 1971 and August 1979, Joe worked at the Glen Canyon National Recreation Area, and then, as Superintendent of Dinosaur National Monument until moving to West Virginia in 1987.

I have been extremely proud to have had the honor to know and work with Joe Kennedy. We have gone through a lot of dedication ceremonies together, ran a goodly number of whitewater rapids on both the New and Gauley together—during which he never fell out of the raft, hiked a trail or two, and had some great discussions. To say the least, I am dismayed that he is retiring. His humor, patience, fortitude, and vision will be sorely missed.

In conclusion, it is my understanding that Joe and his wife Jayne will move back to their native State of North Carolina. He will bring with him a wealth of memories from his years

with the National Park Service, and he will bring with him our friendship and respect.

On behalf of myself and Jim Zoia of my staff, we wish Joe and Jayne Kennedy the very best.

HEALTH CARE ANTIFRAUD AND ABUSE INITIATIVE OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. STARK. Mr. Speaker, today I am introducing H.R. 1912, the Health Care Fraud Prevention and Paperwork Reduction Act. This bill establishes an effective national program to control fraud, waste, and abuse in our health care system.

When Willie Sutton was asked why he robbed banks, he responded: ''Because that's where the money is.'' Today's criminals continue to be attracted to where the money is—in health care. State officials in Florida report that drug traffickers are changing professions because the money is bigger in health care fraud and the risk is less.

Fraudulent activities involve both Government programs and private payers. Federal outlays for Medicare along totaled $162.5 billion in fiscal year 1994, and are expected to exceed $177 billion in 1995 and $198 billion in 1996. GAO estimates that fraud and abuse in the health care industry accounts for an estimated 10 percent of our yearly private and public expenditures. In 1994, this would have approached $94 billion. That amounts to approximately $258 million a day or $11 million every single hour.

The bill would establish an all-payer health care fraud and abuse program, coordinated by the Office of the Inspector General [OIG] of the Department of Health and Human Services. In fiscal year 1994, the OIG generated savings, fines, restitutions, penalties, and receivables of over $8 billion. This represents $80 in savings for every Federal dollar invested in their office, or $6.4 million in savings per OIG employee.

H.R. 1912 would extend Medicare and Medicaid's proven enforcement remedies of civil monetary penalties and criminal penalties to private payers. The policies are proven and represent 25 years of experience in fighting fraud and abuse under Medicare. The bill is an improved version of the antifraud measures included in last year's health reform legislation.

Equally important as preventing and detecting fraud and abuse in the health care system is the deletion of waste. Forms, other paperwork, and burdensome administrative requirements increase the patient costs and frustrate the provider.

The bill would improve the efficiency and effectiveness of the health care system by establishing standards and requirements for electronic transmission of certain health information. H.R. 1912 would reduce the administrative cost of the current system and make health insurance documents easier for patients and providers to understand. A uniform health claims card would be distributed to each beneficiary of a health plan, and all medical records and reporting would be transmitted using a uniform electronic format.

Hearing after hearing has outlined the heavy fraud, waste, and abuse in health care, yet little is done to remedy the problem. Ample evidence exists to show that this activity is costing us millions of wasted dollars each day. We must not wait to enact tougher penalties and enforcement procedures for health care fraud nor should we wait to simplify the administrative processes associated with our health care system. The wasted dollars are far too valuable. This bill should be passed this year.

The following is a summary of the bill:

ANTI-FRAUD AND ABUSE INITIATIVE OF 1995

TITLE: FRAUD AND ABUSE

Subtitle A: Amendments to anti-fraud and abuse provisions applicable to Medicare, Medicaid, and State health care programs

I. Amendments to anti-kickback statutory provisions

A. An intermediate civil monetary penalty of up to $50,000 would be established for anti-kickback violations

B. The current criminal fine would be increased to no more than $50,000

II. Amendments to exceptions to anti-kickback statutory provisions

A. Current exception for discounts would be modified to prevent providers from giving discounts in the form of a cash payment

B. Current exception for bona fide employment relationships would be modified to require that any remuneration be consistent with fair market value, and not be determined in a manner that takes into account the volume or value of any referral

C. Current exception for waiver of coinsurance would be modified to allow for such arrangements if—

(1) A waiver or reduction of coinsurance is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply; or

(a) The person determines in good faith that the individual is indigent, or

(b) The person fails to collect coinsurance or deductible amounts after making reasonable efforts, and

D. An exception would be provided for certain arrangements where providers are paid wholly on a capitated basis

III. Amendments to civil monetary penalty statutory provisions

A. A civil monetary penalty would be established for the following improper conduct:

(1) Offering inducements to individuals to receive from a particular provider an item or service

(2) Engaging in a practice which has the effect of limiting or discouraging the utilization of health care services

(3) Substantially fails to cooperate with a quality assurance program or a utilization review activity

(4) Substantially fails to provide or authorize medically necessary items or services that are required to be provided under the health plan, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individuals

B. Civil monetary penalties would be increased to no more than $10,000 for each false or improper item or service

C. The assessment would be increased to three times the amount claimed and interest shall accrue on the penalties and assessments after a final decision

D. If within one year the Attorney General does not initiate a criminal or civil action the Secretary could initiate a civil monetary penalty proceeding

IV. Private Right of Action

A. Any person that suffers harm as a result of any activity of an individual or entity which makes the individual or entity subject to a civil monetary penalty may bring a civil action

V. Amendments to exclusionary provisions in fraud and abuse program

A. The Secretary would have the additional authority to exclude individuals and entities based on felony convictions relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct in connection with the delivery of a health care item or service

B. The Secretary's current discretionary exclusion authority would be extended to permit the Secretary to exclude individuals who retain an ownership or control interest in a sanctioned entity

C. Minimum period of exclusion for certain violations already specified in statute would be established

VI. Amendments to quality of care sanctions

A. Practitioners or persons who violate quality of care obligations as determined by the Peer Review Organization would be subject to a civil monetary penalty of not more than $10,000

B. The additional requirement that the practitioner be shown to be ''unwilling or unable'' to meet PRO quality of care obligations before the Secretary may exclude the individual from participating in Medicare would be deleted.

VII. Revision of criminal penalties

A. For providers who violate specified fraud and abuse provisions, penalties would include fines, treble damages, and imprisonment

VIII. Amendments to criminal and civil laws

A. A criminal violation for health care fraud would be created for the following crimes

(1) Whoever knowingly executes a scheme to defraud any health plan or person, in connection with the delivery of or payment for health care items or services

(2) Penalties would include a fine and a prison term of not more than 5 years

B. Forfeitures for violations of fraud statutes

(1) If the court determines that a Federal health care offense is of a type that poses serious threat to a person's health, or has significant detrimental impact on the health care system, the court could order the person to forfeit property used in or derived from proceeds from the offense and is of value proportionate to the offense

Subtitle B: Establishment of all-payer health care fraud and abuse control program

I. The Secretary of Health and Human Services (acting through the Inspector General of HHS) and the Attorney General would establish and coordinate an all-payer national health care fraud and abuse control program

II. The Attorney General and Inspector General would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery of and payment for health care and to have access to all records available to health plans relating to the program

III. Coordination with law enforcement agencies and third party insurers

A. The Secretary and the Attorney General would be required to consult with, and arrange for the sharing of resource data with State law enforcement agencies, State Medicaid fraud control units, State agencies responsible for the licensing and certification of health care providers, health plans, and public and private third party insurers

IV. General provisions regarding all-payer fraud and abuse program

A. All health plans, providers, and others would be required to cooperate with the national fraud control program and to provide

such information as is necessary for the investigation of fraud and abuse

(1) Procedures would be established to assure the confidentiality of the information required by the national fraud and abuse program and the privacy of individuals receiving health care services

B. Health plans and providers would be required to disclose information that the Secretary deems appropriate, including information relating to the ownership, control and management of a health care entity

IV. Establishment of fraud and abuse account

A. Civil money penalties, fines, forfeitures and damages assessed in criminal, civil or administrative health care cases, along with any gifts and bequests would be deposited in an ''All Payer Health Care Fraud and Abuse Control account''

B. The assets in the Account would be used, in addition to such appropriated amounts, to meet the operating costs of the national health care fraud control program

Subtitle C: Application of fraud and abuse authorities under the Social Security Act to other payers

I. Application of civil monetary statutory penalties to all payers

A. The provisions under the Medicare and Medicaid programs which provide for civil monetary penalties for specified fraud and abuse violations (as amended by this Act) would apply to similar violations with respect to all payers

B. The following activity would be prohibited and subject to a civil monetary penalty not to exceed $10,000:

(1) Expelling or refusing to re-enroll an individual in violation of federal standards for health plans or State law

(2) Engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment in a health plan on the basis of a medical condition

(3) Engaging in any practice to induce enrollment in a health plan through representations which the person knows or should know are false

Subtitle D: Advisory opinions on kickbacks and self-referral

I. Issuance of Advisory Opinions

A. The Secretary would require an individual requesting an advisory opinion to pay a fee equal to the costs incurred by the Secretary to issue the opinion.

Subtitle E: Preemption of State corporate practice laws

I. Preemption of State Laws Prohibiting Corporate Practice of Medicine

A. No provision of State or local law would apply that prohibits a corporation from practicing medicine.

TITLE II: INFORMATION SYSTEMS AND ADMINISTRATIVE SIMPLIFICATION

I. Uniform health claims card

A. Each beneficiary of a health benefit plan, including Medicare, would be issued a uniform health claims card

B. Each card would include a uniform health claims identification number which would be the Social Security number of the beneficiary

C. The card would be in a form similar to that of a credit card and would have information encoded in electronic form

II. Requirement for entitlement verification systems

A. The Secretary would provide for an electronic system for the verification of an individual's enrollment in a health plan, including Medicare and entitlement to benefits

B. The Secretary would establish standards respecting the requirements for certification of entitlement verification systems

(1) The system would be required to be able to coordinate benefit information among health plans and Medicare

(2) The system would also be required to accept inquiries from health care providers and health benefit plans electronically through the use of electronic card readers, touch-tone telephones, or computer modems

(3) Health benefit plans that fail to provide for an electronic verification system would be subject to civil monetary penalties

III. Uniform claims and electronic claims data set

(A) All claims submitted by providers would be transmitted using a uniform electronic format to be developed by the Secretary

(B) The Secretary would develop a single, uniform coding system for procedures and diagnoses

(C) The Secretary would provide for a unique identifier code for each health service provider and health plan

(D) Health service providers and health plans that fail to submit a claim for payment in a form and manner consistent with the standards would be subject to civil monetary penalties

(E) All claims for clinical lab tests would be submitted directly by the person or entity that performed the test.

IV. Electronic medical records and reporting

(A) The Secretary would promulgate standards for hospitals concerning electronic medical records

(B) As a condition of Medicare participation each hospital would be required to maintain hospital clinical data in electronic form in accordance with these standards

(C) State quill pen laws that require medical or health information to be maintained in written form would be pre-empted

V. Uniform hospital cost reporting

(A) Each hospital would be required to report information on costs to the Secretary in a uniform manner consistent with standards established by the Secretary

DELAURO HONORS DOROTHY BROWN OF STRATFORD UPON HER RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22 1995

Ms. DELAURO. Mr. Speaker, on Friday, June 23, 1995, the town of Stratford will pay tribute to Dorothy Irene Brown in honor of her retirement. After 48 years of exemplary service to the residents of Stratford, Dorothy Brown will be retiring from the position of town purchasing agent.

Dorothy Brown began her career with the town of Stratford in 1947. Since then, she has worked tirelessly to provide the highest standard of service to the town's citizens. Indeed, her dedication and attention to detail have become legendary. Among her many achievements are the implementation of numerous cost-saving measures that have greatly benefited the town of Stratford and its residents. Dorothy is an extremely conscientious and dedicated employee and will be sorely missed by her colleagues.

Dorothy has also served with distinction as president of the Stratford Supervisors Union, and chairwoman of the Stratford employees pension fund. Her strong and insightful leadership skills have earned her enormous respect among her colleagues. For almost half a century she has been the epitome of a public servant.

Mr. Speaker, I am proud to salute Dorothy Brown for a lifetime of service to her community. It is people like Dorothy who make local government work for its citizens, by addressing their needs on a personal level. The contributions of these exemplary public servants should not be overlooked. Their hard work and commitment are the cornerstone of strong and effective local government. Individuals such as Dorothy Brown deserve our strong support and admiration.

I extend my warmest congratulations to Dorothy on this well-deserved tribute, and commend her for 48 years of distinguished work. I wish her many years of good health and happiness in her retirement.

TRIBUTE TO MINA AND JORDAN RUSH

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WAXMAN. Mr. Speaker, please join me in saluting Mina and Jordan Rush, who will receive the service award for their vision of the future at the 47th Annual Tribute Dinner of B'nai David-Judea Congregation on June 25, 1995.

Mina Rush has served B'nai David-Judea Congregation in numerous capacities for many years. She has been a member of the board of directors, membership chairman, and co-chairman of the annual banquet.

Mina Rush has always generously and selflessly devoted herself to worthwhile causes. She has served the State of Israel and cooperated with the Israel Defense Forces in her work with the Volunteers for Israel. She also led the recent Kiev emergency relief project that provided enormous quantities of food for a starving community.

Jordan Rush has had a distinguished career in entertainment as a producer, director, and actor. He served in these roles in ''The Mirror,'' which was honored at the Southwest Film Festival. As a humanitarian, he has chaired Volunteers for Israel and Adopt a Soviet Family, a program of the Jewish Federation.

Proud parents of Tzvia, Atara, and Harel, the Rushes have always been concerned with the future of our Jewish youth. Their entire family worships regularly at B'nai David-Judea Congregation. They have participated in numerous Torah study classes and have been active in the Eliztur Sports League, of which Jordan Rush was a founder.

Mr. Speaker, I ask you and my colleagues to join me in congratulating Mina and Jordan Rush for receiving the prestigious Service Award of B'nai David-Judea Congregation and in expressing appreciation for their many contributions to our community. I extend to them great thanks and wish them every happiness and success in all future endeavors.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. MALONEY. Mr. Speaker, on rollcall vote No. 390, I inadvertently missed the vote. Had I been present, I would have voted ''no.''

THE CRISIS IN BOSNIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMON. Mr. Speaker. I commend to the attention of Members a thoughtful statement concerning the crisis in Bosnia that was delivered on May 29, 1995 at the North Atlantic Assembly by our good friend and colleague, Representative DOUG BEREUTER:

NORTH ATLANTIC ASSEMBLY DEBATE ON BOSNIA

Thank You, Mr. President. The events which have led this Assembly to undertake today's special debate on Bosnia are both compelling and tragic. At the outset, I know I can speak for the Congress and the American people in one regard and that is to convey our grave concern for the safety of all personnel serving for the UN in Bosnia. On this America's Memorial Day our thoughts and prayers are now especially for those troops who have been detained as hostages or who are under imminent threat by the Bosnian Serbs. We especially convey our condolences to the families and the French government for the French soldiers who were so recently killed in the line of duty.

There is very little consensus on the situation in Bosnia but strong views in America as in your own countries.

The Clinton Administration supports the view that UNPROFOR should remain in Bosnia. Present circumstances may dictate that UNPROFOR will have to leave, but America's view is that every effort must be made to keep the UN there—but I stress under acceptable conditions.

We must all recognize that there has always been a tension and a contradiction between the tough mandates adopted at the UN Security Council in New York and the hard realities on the ground in Bosnia. The current crisis dictates that we have to decide once and for all whether UNPROFOR is a peacekeeping force or a peace making force, i.e., an enforcer. As we tragically learned in Somalia it cannot be both.

We must work together within the UN framework to firm-up the UNPROFOR mandate and eliminate its ambiguities to the extent possible. We must examine the increasingly cumbersome and dangerous relationship between NATO and the UN in Bosnia; it is disastrously slow and obviously, in my personal view, Mr. Akashi is not the right man for is position. Specifically, we must allow military commanders on the ground more decision-making discretion, especially concerning the disposition, safety and well-being of peacekeeping troops. I have confidence in General Rupert Smith and his key multinational officers.

Many countries represented here today have troops serving honorably in Bosnia. I want to reassure those colleagues here that we in the U.S. Congress, despite criticism you may have heard from time to time from individual Members, both prominent and obscure—despite that criticims, the Congress and informed Americans remain very appreciative and sensitive to the extremely difficult but very necessary role these UNPROFOR troops have assumed in Bosnia. France and Britain, in particular, have played a central role in this operation and their troops have suffered accordingly.

As our NATO allies, you have our support and solidarity and will continue to have it as your troops try to conduct their difficult mission in Bosnia.

America is fully engaged as your ally in NATO in the advanced contingency planning to withdraw UNPROFOR from Bosnia if this proves necessary. If NATO needs to assist the UN in withdrawing from Bosnia, I would urge that NATO goes in with overwhelming force and that the operation is executed swiftly. We are committed by our President to provide approximately half of the personal for such an operation.

Certainly we must recognize that UNPROFOR cannot stay in Bosnia forever. The force has already been there for three years. It may be that the parties in Bosnia no longer want UNPROFOR to stay or that they will continue to try to manipulate UNPROFOR for their own interests. In November, if UNPROFOR has not already been withdrawn, and if the parties have not agreed on the outline of a peace settlement, we should then consider not renewing the current mandate as it expires. In approaching that decision, however, we also must recognize that the prospect of the withdrawal of UNPROFOR may influence the warring sides in Bosnia to come to a negotiated settlement. Or withdrawing UNPROFOR may only be the prelude to a total bloodbath that will be appalling to the civilized world. Which will it be? There have never been any single or easy solutions to the conflict in Bosnia. There are none in the current crisis either.

The American Government strongly believes that despite the stark conditions in Bosnia we must keep the negotiating track open. The work of the Contract Group should continue. Together as allies we must keep striving to find a negotiated solution to the conflict acceptable to all sides. Hopeless as that seems, we cannot give up, but neither should we delay remedies to the current dangers faced by UNPROFOR and civilians while we seek a negotiated settlement.

In conclusion, I would say that the present turn of events in Bosnia makes it plain that our policies and the means provided to conduct them are not bringing the conflict in Bosnia closer to an end. It seems plain that either we alter our objectives and strategy, or we must escalate UNPROFOR's resources and their use.

Our policymakers, myself included, do understand that the Bosnian ethnic conflict or civil war is probably not an isolated situation. The aftermath of the age of Communism and the end of the Cold War has left Europe and other continents with hundreds of situations of potential ethnic conflict or severe civil strife, many of them with the potential of being as serious as Bosnia. How then do we send the right signal to those elsewhere in Europe, the parts of the former Soviet Union and Africa that the West can and will take measures necessary to ensure that there is not a violent spiralling or ethnicly driven violence in or around Europe?

I do not have an answer for this question, but I would like to close with an observation by Robert Tucker, a distinguished American professor of diplomacy, ''Interdependence itself is not constitutive of order. . . . Interdependence creates the need for greater order because it is as much a source of conflict as consensus.''

Some may therefore submit that the UN and the international community has been couching its strategy for the Bosnian conflict in a desire to control and limit the violence. While that strategy may have worked to some degree within Bosnia, it does not address the question of avoiding further conflict driven by ethnic hatreds elsewhere. And in the long run, such a strategy concedes the game to the party that is willing to be the worst thug on the block.

Quite understandably a great many people in my country, and in yours as well, believe that it is the parties in the Yugoslavian conflict themselves who ultimately will decide whether to live or die with one another, in other words they have concluded that we cannot force peace in Bosnia among people whose deep hatred sets them to kill each other. In the end, the most the international community may be able to say about Bosnia is that we tried, albeit haltingly, inadequately, and timidly. But humanity demands that the effort be made.

The American delegation supports the resolution.

TRIBUTE TO NAVY LT. COMDR. TOM DEITZ

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DORNAN. Mr. Speaker, I rise today to recognize Lt. Comdr. Tom Deitz—our resident Navy Seal and special operations warfare specialist here in Congress—for his distinguished service to the U.S. Special Operations Command, the U.S. Navy, and the entire nation as the Special Operations Command legislative liaison for Naval Special Warfare programs. In this capacity, Tom quickly established a solid reputation with both members of Congress and their staff due to his extensive knowledge of all special operations issues. Fresh from his daring and highly decorated exploits in the Persian Gulf during Desert Storm, Tom was able to give us an insider's view to the unique and powerful special operations force which we in Congress have worked so hard to support during defense budget deliberations.

Tom Deitz has played a vital part in building this congressional support by earning our trust and respect. His effective work on Capitol Hill is legendary. Because of Tom's dedication and commitment to excellence, the U.S. Navy Seals, the U.S. Special Operations Command, and the entire Department of Defense will long reap the benefits of his tenure on Capitol Hill. All of my colleagues and I bid Tom, his wife Pam, and their son and future Seal Tyler, a fond farewell. Good luck and Godspeed at your next assignment at Seal Central on Coronado Island, California.

RECOGNITION OF SENIOR CHIEF GROSS

HON. WALTER B. JONES, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. JONES. Mr. Speaker, I rise today to recognize and honor Ship's Serviceman Senior Chief David Gross, as he retires upon completion of over 23 years of faithful service to our Nation.

A native of Moyock, NC, Senior Chief Gross was inducted in the Navy in 1972. After graduating from recruit training at Naval Training Center, Great Lakes, IL, he served in various managerial billets including Navy exchanges and bachelor enlisted quarters. In addition, he served as a shore patrol officer and as a recruiter. During his most recent shore duty, he served as a logistics management assessment team member at the NAVSURFLANT Readiness Support Group.

Senior Chief Gross accumulated 16 years of sea duty aboard various ships including the U.S.S. *Vulcan* (AR–5), U.S.S. *Conolly* (DD–979), U.S.S. *America* (CV–66), U.S.S. *Coontz* (DDG–40), U.S.S. *Hayler* (DD–997). He was a plank owner aboard U.S.S. *Supply* (AOE–6), the Navy's newest class of fast combat support ships, during his last tour afloat.

His impact on crew morale and readiness has been immeasurable. In addition to providing the finest ship's store, laundry, and barber services to crew members, he maintained tight financial accountability. Senior Chief Gross was also instrumental in providing logistics support to the fleet during his tour as a logistics management team member.

Producing one success story after another, Senior Chief Gross was awarded three Navy Commendation Medals, the Navy Achievement Medal, the Meritorious Unit Commendation, the Battle ''E,'' five Good Conduct Medals, two Navy Expeditionary Medals, two National Defense Service Medals, Southwest Asia Service Medal with Bronze Star, four Sea Service Deployment Ribbons and Kuwait Liberation Medal. In addition, he attained Enlisted Surface Warfare Specialist qualification.

A man of Ship's Serviceman Senior Chief Gross' talent and integrity is rare indeed. While his honorable service will be genuinely missed, it gives me great pleasure to recognize him before my colleagues and to wish him ''Fair Winds and Following Seas,'' as he concludes a long and distinguished career in the U.S. naval service.

TRIBUTE TO THE LATE HONORABLE MATHEW E. WELSH, FORMER GOVERNOR OF INDIANA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. JACOBS. Mr. Speaker, former Governor, Matthew E. Welsh, was nothing less than a noble legend in Indiana and to a considerable extent our entire nation.

He was a giant among Hoosiers. We lost him on May 28, 1995.

He was a man of extraordinary scholarship and civility, quite literally a scholar and a gentleman.

The following tributes were editorials in both the Indianapolis Star and the Indianapolis News:

[From the Indianapolis Star, May 31, 1995]

MATTHEW E. WELSH

As Indiana's 41st governor from 1961 to 1965, Matthew E. Welsh was one of the state's busiest and most productive public servants.

In public life for half a century, as an attorney and Democratic elected official, he was respected by members of both parties.

In his first year as governor, he gave 260 speeches, traveled 27,000 miles by car and plane, and visited 13 states and 42 Indiana counties.

Major accomplishments of his administration were creation of the Indiana Civil Rights Commission, which investigates complaints of discrimination; formation of the Department of Administration; and improving the general quality of state government by extending the merit system.

As Gov. Evan Bayh said, he led the state at a time of great growth and presided over the building of the state's interstate highway system, construction of flood-control reservoirs, improvement in the mental health system and the first land acquisition plan for public recreation since the 1920s.

Welsh took pride in biting the bullet in proposing Indiana's first sales tax. But much of the public expressed pain and resentment when the 2 percent bite was enacted in 1963.

Forming Indiana Citizens Against Legalized Gambling, working to improve mental health treatment facilities, serving on a task force on property tax control and the Mayor's Intergovernmental Relations Task Force, serving on the Greater Indianapolis Progress Committee and heading its task force on poor relief were but a few of his many contributions to city, state and national life.

Always a modest and able leader, a perfect gentleman, gracious, with a sparkling sense of humor, Matt Welsh won many honors, made many friends and had many admirers during a productive public life. His death at 82 takes an honorable, respected and charming public servant from the Indiana scene.

[From the Indianapolis News, May 30, 1995]

MATTHEW E. WELSH

Matthew E. Welsh, Indiana's 41st governor and one of the most decent and able men ever to serve in Indiana politics, passed away over the weekend.

Welsh, a lawyer and former state legislator, first attempted to capture the governor's seat in 1956, losing the Democratic nomination to Ralph Tucker. Many considered that loss a blessing in disguise for Welsh, believing that the election of Republican Harold Handley was inevitable.

Four years later, Welsh got his party's nomination and, with some help from a strong presidential run by John Kennedy, won with a 23,177-vote victory over former Lt. Gov. Crawford Parker.

A moderate Democrat, Welsh was credited with boosting merit employment in state government, creating the Indiana Civil Rights Commission, pushing school consolidation and presiding over construction of the interstate highway commission. He has also been credited with, or blamed for, imposing the state sales tax.

Strongly believing in the necessity for overhauling the state's revenue system, including the imposition of the sales tax. Welsh had to battle a Republican-controlled Indiana General Assembly to get the job done.

The Indiana Constitution prevented him from seeking another consecutive term. In 1972, however, he ran for governor again.

Scars from that sales tax battle, coupled with having weak presidential coattails from Democratic presidential nominee George McGovern and a strong Republican opponent, Otis Bowen, led to Welsh's defeat the second time he sought the governor's office. With Welsh and Bowen running for the office, however, it was a race Hoosier voters could not lose.

''There was no one in government or politics I respected more,'' said Bowen of his former opponent. ''Matt Welsh was a most honorable and dedicated public servant. Indiana is better off for his having been governor.''

Losing the 1972 election did not end Welsh's public service or his contributions to Indiana.

He served on numerous boards, commissions and agencies for both the city of Indianapolis and the state. Welsh was particularly instrumental in working for the improvement of mental health facilities and treatment in Indiana. He also joined other political, educational, religious and civic leaders in lobbying against legalized gambling in the state.

Furthermore, he maintained an active involvement in the Democratic Party and served as an advisor to many Hoosier politicians, including former Indiana Sen. Birch Bayh.

''Governor Welsh was a great man,'' said Gov. Evan Bayh, who also received considerable help and advice from Welsh. ''He was greatly loved by all Democrats and admired and respected by Democrats and Republicans alike.''

He will be sorely missed by Hoosiers of all political persuasions who benefited from his leadership.

TRIBUTE TO REPUBLIC, MI, IN HONOR OF ITS 125TH ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. STUPAK. Mr. Speaker, I rise today to offer my sincere congratulations to the Village of Republic in Michigan's Upper Peninsula which is celebrating its 125th anniversary this year.

The pioneers who settled in northern Michigan, and especially in the area later known as Republic, survived boom times and bad times with traditional American fortitude.

From the first recorded purchase of land in the area by William Pratt on March 13, 1851, the town, originally known as Iron City, flourished.

From the beginning, iron mining was an important industry to Republic. In 1856, an iron vein was discovered by explorer Silas Whetstone Smith, for whom the bay and mountain or iron were named. The first and most successful of the iron companies was formed in 1870. On November 3, 1871, Peter Pascal, an agent of the Republic Iron Mining Co., directed clearance of lands for the company. The first permanent settlers arrived in 1872, and mining operations began by 1873. Mining and lumbering industries attracted railroads, and the town flourished.

Like many other towns in Michigan, Republic had a prosperous lumbering industry, especially from the 1870's to the early 1900's. Lumbering was an important source of employment, and it continues to be a thriving industry.

By 1928, the economy slowed down, and Republic residents, along with the rest of the country, found themselves in the midst of the Great Depression. With the advent of the New Deal and the creation of the Works Progress Administration, many improvements were made to the town and surrounding area.

Although Republic was for many years a mining community, the closing of the mine in 1980 presented an enormous challenge to local residents. Fires in the area also took a tool, but the village rebuilt. Today, Republic is a viable, dynamic, and friendly community.

As part of its celebration of its 125th anniversary, Republic residents, the Republic Area Historical Society, and the Ethnic Days Committee have planned several events, including a Mid-Summer Festival in Munson Park, a Quasquicentennial Home Tour, and construction of a Heritage Quilt.

I know my colleagues join me in honoring the residents of the Village of Republic as they celebrate the 125th anniversary of the founding of Republic.

TRIBUTE TO THE LATE LINDSAY NELSON

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, I wish to make all of my colleagues in this body aware that one of America's most famous voices in sports television and radio recently passed away. Mr. Lindsey Nelson was a longtime announcer for numerous sporting teams and events at both the collegiate and professional level. I am proud to say that Mr. Nelson was a native of the Seventh Congressional District of Tennessee, hailing from Columbia in Maury County. One of my good friends, Don Hinkle, is the editor of the Daily Herald in Columbia, and he recently wrote a fitting editorial in memory of Mr. Nelson and his illustrious career. I would like to bring Mr. Hinkles' work to the attention of my colleagues, for it would do each of us well to reflect upon the life of one of the most celebrated sports announcers in the history of this country. Mr. Hinkles' moving editorial reads as follows:

Lindsey Nelson was arguably the most famous person to ever come out of Maury County.

Though the Polk daughters and the Sterling Marlin fans can rightly claim an equally lofty position for their beloved sons, perhaps no one has been as enduring to living Maury countians—and to all American sports fans—as the talented Nelson.

Known for his colorful sports jackets, Nelson began his career in the news media here at the Daily Herald in the early 1930's, working first as a carrier then later as this newspaper's first sports writer.

He went on to the University of Tennessee and a Hall of Fame career as a sportscaster—both on radio and television. He distinguished himself as ''The Voice'' of the New York Mets in the 1960's and 1970's and the Cotton Bowl football game for 26 years. He also founded the far-flung UT Radio Network, now one of the largest in the nation.

''Hello Everybody, I'm Lindsey Nelson,'' became one of the most familiar introductions in all of sports broadcasting. Those words became so famous, that Nelson elected to use them as the title of his autobiography published in 1985.

His articulate descriptions of the action were not only exciting, but downright comfortable—kind of like your favorite easychair. His voice was clear and his style gracious, typical of the Southern gentleman he truly was.

Sadly we have all lost an old friend.

Even those who never had the privilege of meeting Nelson felt like they knew him anyway. Too many of us sat huddled up against our radios to hear him call a Tennessee football game or sat in our dads' laps and watched him on Sunday afternoon NLF telecasts.

Today Maury County mourns the loss of one of its greatest native sons.

Lindsey Nelson was loved and we will all miss him.

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BAKER of California. Mr. Chairman, on June 29, 1920, California's first chapter of the Associated General Contractors of America [AGC] met in Los Angeles. Since then, the California AGC has played a vital role in the growth of California's economy and become the largest regional construction association west of the Mississippi River.

Next year, the AGC is likely to contribute over one-half million jobs to our economy. Tens of thousands of men and women, from Redding to Escondido, will find rewarding employment in construction and its related crafts.

Membership of the AGC includes building, highway, underground, and utility construction contractors, as well as subcontractors, material producers, and service providers. The AGC works closely with professional groups like the American Institute of Architects and State organizations such as the Bay Area Rapid Transit District and the California departments of transportation and corrections. Such affiliations result in the specifications that set the standard for California's construction industry.

It is pleasure for me to recognize the AGC, and to thank the many dedicated people who have literally helped build California. My best to the AGC for many years of continued success.

IN HONOR OF SISTER ANNE VIRGINIE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Ms. DELAURO. Mr. Speaker, I would like to congratulate one of Connecticut's most outstanding citizens, Sister Anne Virginie, whose wealth of good works has earned her the Easter Seal Goodwill Rehabilitation Center's Laurel Award.

Growing up in Waterbury, CT, Margaret Mary Grimes joined the Sisters of Charity of St. Elizabeth and has ever since embodied the loving service characteristic of her order. Devoting her life to the Sisters of Charity and their mission, Sister Anne has brought many skills acquired during her undergraduate study of business at the College of Saint Elizabeth and her graduate study in hospital Administration at Saint Louis University.

The Sisters of Charity have made good use of Sister Anne's tremendous talents and her tireless commitment to serving others. She tended to the sick as an administrator of two hospitals in New Jersey and then strengthened her order by serving as provincial superior of the Northern Province of the Sisters of Charity. We in Connecticut are eternally grateful that upon her return to her home State, Sister Anne has continued to help those in need. We constantly benefit from her efforts to model for others the values she upholds as a servant to the Church of Christ.

In New Haven, Sister Anne has continued her mission of healing and comforting the sick for over two decades at Saint Raphael's Hospital. First as associate administrator, then as president of the hospital, and finally as president and chief executive officer of the Saint Raphael Healthcare System, Sister Anne has provided Connecticut residents with the highest quality health care. It has been my personal pleasure to work with her to extend health care to those in the Greater New Haven area. Her inner strength has been a true inspiration.

Sister Anne's commitment to enhancing the community by helping others extends well beyond Saint Raphael's and includes efforts on behalf of causes as diverse and worthwhile as the Mercy Center and the Shubert Opera Board.

Her many contributions, especially her outstanding work to further the Easter Seal Goodwill Rehabilitation Center's mission, have earned her the Laurel Distinguished Service Award. Sister Anne knows that many people with special challenges, not just those who are able to pay, need the rehabilitation center's help to become more independent. As chairperson of the Easter Seals Telethon over the last 2 years, Sister Anne has been the key to the fundraising operation, raising over $285,000 to make sure that the rehabilitation center will be able to help all those in need.

I congratulate Sister Anne on this well-deserved honor and express my sincere gratitude for all of her good works.

TRIBUTE TO NANDOR MARKOVIC

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in paying tribute to Nandor Markovic, who will be honoree of the evening of B'nai David-Judea Congregation's 47th Annual Tribute Dinner on June 25, 1995.

Mr. Markovic survived the Holocaust, the most horrible episode in Jewish history, but not before witnessing the destruction of his hometown and suffering the travail of six concentration camps, including the notorious camp at Auschwitz.

Despite his terrible suffering during this dark period, Nandor Markovic never abandoned his faith in God or his confidence in the ultimate survival of the Jewish people.

Steeped in the sophisticated Judaic studies of the Yeshivot of his native Czechoslovakia, he became a leader in the struggle for the creation of the State of Israel and served as a commander in the war of independence.

Nandor Markovic and his wife, Frances, have devoted themselves to numerous worthwhile activities in Los Angeles and Israel. Mr. Markovic has served as president or chairman of the board of B'nai David-Judea Congregation for 15 years and has applied his erudition in matters of Jewish law to the work of B'nai David-Judea Congregation since 1960.

Mr. Speaker, I ask the Members of the House of Representatives to join me in saluting Nandor Markovic, his courage, and the great achievements he has made in his extraordinary life. I wish him happiness, good health, and enduring vigor to lead B'nai David-Judea Congregation and to continue in his role as prominent leader of our community.

SUPPORT FOR AGRICULTURAL EXPORT PROGRAMS

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. CHENOWETH. Mr. Speaker, I would like to have the following letter from my friends at the Idaho Farm Bureau Federation inserted into the CONGRESSIONAL RECORD.

IDAHO FARM BUREAU FEDERATION,
Boise, ID, June 13, 1995.

Re Agricultural export program appropriations.

Hon. HELEN CHENOWETH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN CHENOWETH: The Idaho Farm Bureau Federation recognizes the importance of foreign markets to United States' agriculture. We support FY 1996 full funding of the following programs at the indicated levels:

Foreign Market Development (FMD)—$33 million.

Market Promotion Program (MPP)—$110 million.

Export Enhancement Program (EEP)—$912.3 million.

Vegetable oilseed products SOAP&COAP—$53 million.

Dairy products & livestock—$203.1 million.

Please enter this letter into the record and express our support of these programs and funding levels at the mark-up of the FY '96 agriculture appropriations bill during the House Appropriations Subcommittee hearing on Wednesday, June 14.

Thank you very much for all you do for Idaho and Idaho agriculture. We've heard many very positive remarks from our members who attended and testified at the recent Boise hearing. Thank you again.

Sincerely,

V. THOMAS GEARY,
President.

TRIBUTE TO DENNIS DELEON PRESIDENT OF THE LATINO COMMISSION ON AIDS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Dennis DeLeon, a human rights advocate, AIDS activist, Hispanic community leader, and, I am proud to say, a friend. He will be honored today for his great contribution to the community by Manhattan Borough President Ruth W. Messinger at the ''Unity in Community'' event.

Born in Los Angeles to Mexican-American parents, young Dennis started a career of community activism, serving as the president of the student body at Occidental College. He later graduated from Stanford School of Law. His school years were marked by his academic achievements and leadership in law and Latino organizations.

Dennis soon became active in Latino civil rights issues. He was one of the founders of the largest Latino employee organization in the Department of Justice and later, in California, he worked as regional counsel for California Rural Legal Assistance, an organization which provided legal assistance to migrant workers.

In 1982, he was appointed to serve as senior assistant corporation counsel in the New York City Law Department where he provided litigation supervision on civil rights issues including immigration, gay and lesbian anti-discrimination, and gender discrimination.

Besides being an excellent attorney, Dennis has written a number of publications on human rights, Hispanic labor and discrimination issues.

In 1986, New York City Mayor Edward Koch appointed Dennis to serve as executive director of the Commission on Hispanic Concerns. In 1988, Manhattan Borough President David Denkins appointed him to serve as deputy borough president. He later served as chairman of the New York City Commission on Human Rights.

Dennis continued fighting for the rights of Latinos, gays, women, lesbians, immigrants, and other minorities. Presently, he leads the Latino Commission on AIDS. Dennis is tireless in his commitment to the enhancement of services for Latino AIDS victims and their families.

He is a board member of a number of organizations, including the New York State Bar Association, Puerto Rican Bar Association, Gay and Lesbian Alliance Against Defamation, Persons with AIDS Coalition, and the Latino Coalition for a Fair Media.

Mr. Speaker, I ask my colleagues to join me to recognize this outstanding individual who is being honored today for his human rights efforts and his dedication to the Latino community.

TRIBUTE TO SOMERSET R. WATERS III

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TORRES. Mr. Speaker, I wish to express the appreciation of this body regarding Mr. Somerset R. Waters III, because of his tireless support of the Baltimore Theatre Project over more than a decade, and his championing of the key role that that institution has played in the growth and development of the International Theatre Institute—both the U.S. Centre and the international body.

The values of the International Theatre Institute—a UNESCO-founded institution that encompasses 75 countries—promote the free exchange of theater artists, build bridges across the supposed boundaries of culture, language, and politics, refute the cynicism of our time, and offer, through the clearer eyes of art, hope for the future.

The Baltimore Theatre Project, celebrating its 25th anniversary season, embodies that sense of hope and international fellowship—as Mr. Waters retires as Theatre Project chair, he can take much of the credit for sustaining and giving direction and vision to this important American theater.

ALWAYS IN MY HEART

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HINCHEY. Mr. Speaker, during the Memorial Day recess, I had the privilege of visiting the Republic of China on Taiwan. I was especially pleased that my visit coincided with President Clinton's decision to grant President Lee a visa to visit our country on the occasion of his reunion at Carnell University in Ithaca, NY, in my district. President Lee was clearly very pleased and grateful to have the opportunity to return to his alma mater. New Yorkers were delighted to see him, and he received a warm welcome.

His Olin lecture on June 9 conveyed his message and the message of his country exceptionally well—a story of hopes, expectations, and determination and Taiwan's every changing status in the global community. I would like to share it with the House in its entirety.

Mr. Speaker, I therefore ask for your permission to print President Lee Teng-hui's Olin lecture, ''Always in My Heart,'' in its entirety in the RECORD for the enjoyment of my colleagues and others interested in Taiwan.

ALWAYS IN MY HEART

It is a great honor for me to be invited to deliver the Olin Lecture at my alma mater, Cornell University. It has been a long and challenging journey, with many bumps in the road, yet my wife and I are indeed very happy to return to this beloved campus.

This trip has allowed both of us to relive our dearest Cornell experiences. The long, exhausting evenings in the libraries, the soothing and reflective hours at church, the hurried shuttling between classrooms, the evening strolls, hand in hand—so many memories of the past have come to mind, filling my heart with joy and gratitude.

I want to thank you, President Rhodes, for your hospitality and for your unflagging support of my visit here to my alma mater.

I thank you, my fellow alumni, for your understanding and support as I undertake this important sentimental journey.

I thank the many, many friends in the United States who have been so supportive of my visit to your great country again.

And I also want to thank the people of this academic community, my professors and classmates, for the deep and lasting influence that Cornell University has had on my life. The support each of you has given means a great deal to me.

I deem this invitation to attend the reunion at Cornell not only a personal honor, but, more significantly, an honor for the 21 million people in the Republic of China on Taiwan. In fact, this invitation constitutes recognition of their remarkable achievements in developing their nation over the past several decades. And it is the people of my nation that I most want to talk about on this occasion.

LISTENING TO THE PEOPLE

My years at Cornell from 1965 to 1968 made an indelible impression on me. This was a time of social turbulence in the United States, with the civil rights movement and the Vietnam War protest. Yet, despite that

turbulence, the American democratic system prevailed. It was also the time I first recognized that full democracy could engender ultimately peaceful change, and that lack of democracy must be confronted with democratic methods, and lack of freedom must be confronted by the idea of freedom before it would be possible to hasten the day of genuine democracy and freedom. I returned to my homeland determined to make my contribution toward achieving full democracy for our society.

Ever since I became president of the Republic of China in 1988, I have sought to ascertain just what the people of my country want and to be always guided by their wishes. Ancient China's Book of History from over 2000 years ago, contains the phrase, ''Whatever the People desire, the realm must follow.'' My criterion for serving as president is that I do it with the people in my heart. And it is obvious to me that most of all they want democracy and development. Democracy entails respect for individual freedom, social justice, and a sense of directly participating in the destiny of their nation. Economic development goes beyond attaining prosperity, it also involves equitable distribution of wealth.

Today we are entering a new post-Cold War era, where the world is full of many uncertainties. Communism is dead or dying, and the peoples of many nations are anxious to try new methods of governing their societies that will better meet the basic needs that every human has. There are many pitfalls in this search for a new rationale, and Man must strive to make the right choices with all the wisdom and diligence he can command.

Czech President Vaclav Havel said, ''The salvation of this human world lies nowhere else but in the human heart.'' In my heart, I believe that the Taiwan Experience has something unique to offer the world in this search for a new direction. This is not to say that our experience can be transplanted entirely to fit the situation faced by other nations, but I believe that, without a doubt, there are certain aspects of this experience that offer new hope for the new age.

THE TAIWAN EXPERIENCE

By the term Taiwan Experience I mean what the people of Taiwan have accumulated in recent years through successful political reform and economic development. This experience has already gained widespread recognition by international society and is being taken by many developing nations as a model to emulate. Essentially, the Taiwan Experience constitutes the economic, political and social transformation of my nation over the years, a transformation which I believe has profound implications for the future development of the Asia-Pacific region and world peace.

It is worth remembering what we in the Republic of China on Taiwan have had to work with in achieving all that we now have: a land area of only 14,000 square miles (slightly less than 1/3 the area of New York State) and a population of 21 million. My country's natural resources are meager and its population density is high. However, its international trade totaled US$180 billion in 1994 and its per capital income stands at US $12,000. Its foreign exchange reserves now exceed US$99 billion, more than those of any other nation in the world except Japan.

The Taiwan Experience bases peaceful political change on a foundation of stable and continuous economic development. Taiwan, under Presidents Chiang Kai-shek and Chiang Ching-kuo, experienced phenomenal economic growth. Currently, aside from economic development, Taiwan has been undergoing a peaceful political transformation to full democracy.

For many developing nations, the process of moving to a democratic system has been marked by a coup d'etat, or by the kind of ''political decay'' suggested by Professor Samuel P. Huntington. In short, it is not unusual for such a process of transformation to be accompanied by violence and chaos. However, the case of the Republic of China on Taiwan is a notable exception. Non-existent is the vicious cycle of expansive political participation, class confrontation, military coup and political suppression, which have occurred in many developing countries. The process of reform in Taiwan is remarkably peaceful indeed, and as such is virtually unique. In addition to the ''economic miracle,'' we have wrought a ''political miracle,'' so to speak.

The Taiwan Experience has regional and international dimensions as well. In 1994, the indirect trade between Taiwan and mainland China reached US$9.8 billion. Taiwan's indirect investment in southern mainland China, made through Hong Kong, amounted to nearly US$4 billion, according to estimates from various quarters. Taiwan's trade and investment have also been extended to members of the Association of Southeast Asian Nations, Vietnam, Russia, U.S. and countries in Central America and Africa.

Although the Republic of China on Taiwan has been excluded from the United Nations, it has accelerated the formation of an international network with economic ties as the key link. Recently, it has even begun to launch a project to build Taiwan into an Asian-Pacific Regional Operations Center, aiming at further liberalization and globalization of our economy.

I never allow myself to ever forget for a moment that Taiwan's achievements have been realized only through the painstaking effort and immense political wisdom of the people. However, success comes from difficulty, and the fruits of the Taiwan Experience are all the sweeter today from a recognition of the arduousness of the process.

POPULAR SOVEREIGNTY

We in the Republic of China on Taiwan have found that peaceful transformation must take place gradually, and with careful planning. Five years ago, on my inauguration day, I pledged to initiate constitutional reform in the shortest possible period of time. My goal was to provide the Chinese nation with a legal framework that is in accord with the times, and to establish a comprehensive model for democracy. These goals have since been realized with the support of the people.

Our constitutional reform was conducted in two stages. First, all the senior parliamentarians last elected in 1948 were retired. Then, in the second stage, comprehensive elections for the National Assembly and the Legislature were held in 1991 and 1992 respectively. This enabled our representative organs at the central government level to better represent the people.

Last year, the governor of Taiwan province, and the mayors of Taipei and Kaohsiung, the two largest cities in Taiwan which used to be directly administered by the central government as special municipalities, were directly elected by the people for the first time. Next spring, the president and vice president of the Republic will also be directly elected by the people for the first time.

With the completion of constitutional reform, we have established a multiparty system and have realized the ideal of popular sovereignty. This has led to full respect for individual freedom, ushering in the most free and liberal era in Chinese history. I must reiterate that this remarkable achievement is the result of the concerted efforts of the 21 million people in the Taiwan area.

Today, the institutions of democracy are in place in the Republic of China; human rights are respected and protected to a very high degree. Democracy is thriving in my country. No speech or act allowed by law will be subject to any restriction or interference. Different and opposing views are heard every day in the news media, including harsh criticism of the President. The freedom of speech enjoyed by our people is in no way different from that enjoyed by people in the United States.

I believe that the precept of democracy and the benchmark of human rights should never vary anywhere in the world, regardless of race or region. In fact, the Confucian belief that only the ruler who provides for the needs of his people is given the mandate to rule is consistent with the modern concept of democracy. This is also the basis for my philosophy of respect for individual free will and popular sovereignty.

Thus, the needs and wishes of my people have been my guiding light every step of the way. I only hope that the leaders in the mainland are able one day to be similarly guided, since then our achievements in Taiwan can most certainly help the process of economic liberalization and the cause of democracy in mainland China.

I have repeatedly called on the mainland authorities to end ideological confrontation and to open up a new era of peaceful competition across the Taiwan Straits and reunification. Only by following a ''win-win'' strategy will the best interests of all the Chinese people be served. We believe that mutual respect will gradually lead to the peaceful reunification of China under a system of democracy, freedom and equitable distribution of wealth.

To demonstrate our sincerity and goodwill, I have already indicated on other occasions that I would welcome an opportunity for leaders from the mainland to meet their counterparts from Taiwan during the occasion of some international event, and I would not even rule out the possibility of a meeting between Mr. Jiang Zemin and myself.

YEARNING TO PLAY A POSITIVE ROLE

When a president carefully listens to his people, the hardest things to bear are the unfulfilled yearnings he hears. Taiwan has peacefully transformed itself into a democracy. At the same time, its international economic activities have exerted a significant influence on its relations with nations with which it has no diplomatic ties. These are no minor accomplishments for any nation, yet, the Republic of China on Taiwan does not enjoy the diplomatic recognition that is due from the international community. This has caused many to underestimate the international dimension of the Taiwan Experience.

Frankly, our people are not happy with the status accorded our nation by the international community. We believe that international relations should not be solely seen in terms of formal operations regulated by international law and international organizations. We say so because there also are semi-official and unofficial rules that bind the international activities of nations. This being so, we submit that a nation's substantive contribution to the international community has to be appreciated in light of such non-official activities as well.

During last year's commencement, President Rhodes brought up the old saying, ''Be realistic. Demand the Impossible!'' Well, over the last four decades, we have been extremely realistic while always trying to look forward, not backward, and to work, not complain. Accordingly, we have created the very fact of our existence and economic prosperity. We sincerely hope that all nations

can treat us fairly and reasonably, and not overlook the significance, value and functions we represent.

Some say that it is impossible for us to break out of the diplomatic isolation we face, but we will do our utmost to ''demand the impossible.'' Ultimately, I know that the world will come to realize that the Republic of China on Taiwan is a friendly and capable partner for progress!

If we view the recent economic, political and social developments in the ROC in this light, we have a basis for defining the status of my country in the post-Cold War and post Communist era. Only in this way can we propose a new direction for the new world order as we enter the 21st century.

CLOSE TRADITIONAL TIES

I want to once again express how grateful I am to be with you. My gratitude extends not only to Cornell but also to the United States as a whole. When we look back in history, we can immediately realize how close the traditional ties between our two countries are. Indeed, our shared ideals for human dignity, and peace with justice have united our two peoples in the closest of bonds.

The United States was extremely helpful in the early stages of Taiwan's economic development. We have never forgotten America's helping hand in our hour of adversity, so your nation occupies a special place in our hearts. Today, as the 6th largest trading partner of the United States, the Republic of China imports and exports US$42.4 billion worth of goods through our bilateral trade. We also are the number two buyer of US treasury notes. About thirty-eight thousand students from Taiwan are studying in the United States. Students who have returned have made important contributions to our society.

The Republic of China's development has been partly influenced by the experiences of its people while studying abroad. I gained substantial know-how in the mechanics of national growth and development from the faculty and students I worked with here in America at both schools where I studied. I had the chance to see democracy at its best in the United States, and to observe its shortcomings as well. We in Taiwan believe that we have much to learn from an advanced democracy such as the United States; however, we also believe we should develop our own model. The success of our democratic evolution has provided tremendous hope for other developing nations, and we wish to share our experience with them. Our efforts to help others through agricultural development have been well received, and we are eager to expand our technical assistance programs to friendly nations in the developing world.

Taiwan has grown from an agricultural exporting economy to a leading producer of electronics, computers and other industrial goods. We are ''paving the information highway'' with disk drives, computer screens, laptop computers and modems. We are poised to become a major regional operations center as well as to buy more American products and services to develop our infrastructure.

We stand ready to enhance the mutually beneficial relations between our two nations. It is my sincere hope that this visit will open up new opportunities for cooperation between our two countries.

It is for this reason that I want to publicly express my appreciation and admiration to President Clinton for his statesman-like decision. We are equally grateful to others in the administration, to the bipartisan leadership in Congress, and to the American people.

ALWAYS IN MY HEART

Whatever I have done as president of my nation, I have done with the people in my heart. I have thought long and hard about what my people want, and it is clear that most of all, they desire democracy and development. These wishes are no different than those of any other people on this planet, and represent the direction in which world trends will certainly continue.

As I have spoken to you today, I have done so with the people in my heart. I know that what my people would like to say to you now can be expressed by this simple message:

The people of the Republic of China on Taiwan are determined to play a peaceful and constructive role among the family of nations.

We say to friends in this country and around the world:

We are here to stay;

We stand ready to help;

And we look forward to sharing the fruits of our democratic triumph.

The people are in my heart every moment of the day. I know that they would like me to say to you, that on behalf of the 21 million people of the Republic of China on Taiwan, we are eternally grateful for the support—spiritual, intellectual and material—that each of you has given to sustain our efforts to build a better tomorrow for our nation and the world. In closing, I say God bless you, God bless Cornell University, God bless the United States of America, and God bless the Republic of China.

Thank you very much.

CONGRATULATIONS LEXINGTON, LEDFORD, AND ANDREWS BASKETBALL TEAMS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. COBLE. Mr. Speaker, before we bring this year's basketball season to a close, I must say a few words about three basketball teams in my congressional district. The Sixth District of North Carolina was fortunate enough this year to have three high school squads capture State championships.

We are proud that Lexington High School of Davidson County won the boys' 2–A championship, Ledford High School also of Davidson County won the girls' 2–A championship, and High Point Andrews High School of Guilford County won the boys' 3–A championship.

On Saturday, March 25, 1995, two Davidson County high schools captured North Carolina basketball titles. The Lexington boys and Ledford girls won their respective State 2–A championships. Let's begin with the Lexington Yellow Jackets, a team many people did not think could win a championship this year.

Lexington finished third in the Carolina Conference with a 22–9 record. The Yellow Jackets were playing the title game against the 27–1 Whiteville Wolfpack, considered to be the best 2–A team in the State. Lexington won the title game with a thrilling 69–67 victory when center Bernard McIntosh followed his own missed free-throw attempt with a putback basket at the buzzer. McIntosh, who scored 28 points and pulled down 12 rebounds in the game was named MVP of the game which was played at the Dean Smith Center in Chapel Hill.

The Wolfpack coach told the Lexington Dispatch that the loss to the Yellow Jackets was hard to believe. ''We thought we were going to win the State title,'' Wolfpack coach Glenn McKoy told the Davidson County newspaper. ''I guess we still have something to work for next year. Hey, Lexington has a real fine ball club. My hat goes off to them.''

Our hats go off to all of the members of the Yellow Jacket basketball squad. Congratulations to head coach Michael Gurley and his assistant coaches Robert Hairston and Jim Snyder. Congratulations are extended to every member of the team: Courtney Adams, Chad Griffith, Vince Williams, LeMar Hargrave, Rocke Shivers, Jason Zimmerman, Chad Walker, Antonio Threadgill, Marcus Hargrave, Toy Cade, Martin Saddler, Bernard McIntosh, J.D. Harris, Bert Davis, Chad Hearst, and Todric Jenkins.

As with every successful endeavor, the new champions could not have achieved what they did without a great supporting cast. A tip of the cap is in order for administrative assistant coaches Ellen Garner and Heather Gurley, student assistant coach Paul Lyon, managers Rick Conner, Tyrone McCandies, Michael Evans, Jake Rowe, and Josh Lovell and mascot Hayden Gurley. Three cheers for cheerleading director Ginger Fritts and her squad of cheerleaders: Antionette Kerr, Carsha Cravon, Angie Harris, Heather Cox, Tory Wilson, Emily Halverson, and Tamika Anderson.

To Principal Ashley Hinson, Athletic Director West Lamoureaux, the faculty, staff, students, families, and friends of Lexington High School, we offer our congratulations on winning the North Carolina 2–A high school boys' basketball championship.

The other Davidson County high school to win a State basketball title this year was the Lady Panthers of Ledford High School of Thomasville, NC. On March 25, the Lady Panthers traveled to Chapel Hill to play in Carmichael Auditorium and capture the girls' 2–A crown with a 65–60 win over Southwest Guildord, another Sixth District high school.

Head Coast John Ralls told the Thomasville Times that it was the third straight game of the playoffs that his team used a timely last-minute drive to seal the victory. ''That's hitting the nail on the head,'' Ralls told the Thomasville newspaper. ''They had poise and composure under pressure . . . and lots of pressure, especially (tonight). They just handled themselves well and did the things they had to do to win.'' That included turning to a youngster for leadership—when needed. Freshman Stacey Hinkle was named MVP for her 15-point performance in the title contest.

Congratulations to Coach Ralls and his assistant coaches Joe Davis and Allen Patterson. In addition to Hinkle, the freshman MVP, every member of the Lady Panther team can equally share this year's championship: Ruth Armstrong, Laurie Smith, Kelly Thomas, Quinn Homesley, Amy Wells, Amanda Reese, Misty Sharp, Ginger Cox, Sara Day, Courtney Patterson, Marcy Newton, and Tracie New. Strong support was given to the Lady Panthers throughout the year by manager Sarah Hester, video manager Aaron Kindley, statistician Zac Herrmann, and scorekeeper Shelly Barrett.

This is the second time Coach Ralls has led the Lady Panthers to a State title. In 1991, Ledford High School won the State softball crown. Coach Ralls told the Thomasville Times, ''It's kinda neat. I really like it. I mean

whatever sport you're coaching in that's what you're working for—to try to get your team to win a state championship. So, it's something we wanted to do.'' This year's Lady Panthers finished their championship season with a record of 29–3. Over the past five basketball seasons, Coach Ralls has guided the Ledford girl hoopsters to a 113–27 record, an 80.7 winning percentage.

Congratulations to Principal Max Cole, Athletic Director Gary Hinkle, the faculty, staff, students, families, and friends of Ledford High School for joining with Lexington High School to make sure that the State's 2–A basketball championship trophies reside within the boundaries of Davidson County.

The third high school in the Sixth District to win a basketball championship this year was T. Wingate Andrews High School of High Point, NC. On March 25, the Red Raiders dominated Wake Forest-Rolesville High School 71–51 to secure the State boys' 3–A basketball championship.

Andrews thoroughly dominated a Rolesville team that entered the title contest on—as its name implies—a roll. The Cougars had won their previous 20 contests this season and have won six State titles over the years. But at the Dean Smith Center in Chapel Hill this year, the Cougars couldn't even score for the first 4 minutes 40 seconds of the contest against the Red Raiders of Andrews.

''We had a lot of support,'' Andrews Head Coach Robert Clemons told the Greensboro News & Record, ''the kids played hard and we won this thing. I feel relieved. I put a lot of pressure on myself. Our administration, they were very supportive. They didn't put any pressure on me. I did it all myself. And then I just put the responsibility on the kids and they responded well.''

That may be the understatement of the year. I am sure that Coach Clemons will be the first to say it was a total team effort, but special mention must be made of championship MVP David Wall who led all scorers with 20 points. Each Red Raider, however, played a vital role in the title drive for Andrews. Congratulations are given to Torrey Bright, Jason Blackwood, Antwan Hilton, Cory Dawkins, Jimmy Mangum, Marcus Wilson, Cardise Reed, Brian Gane, Quincey Dixon, B.J. Rogers, Rico Leach, J.J. McQueen, and Steve Myers for bringing home the trophy.

In addition to Coach Clemons we offer our thanks to assistant coaches Myron Grimes and Dana Conte and scorekeeper Liz Kimbro for their efforts during the run to the top. Congratulations to Principal Jerry Hairston, Athletic Director Sue Shinn, the faculty, staff, students, families and friends of T. Wingate Andrews for capturing the State 3–A boys' basketball championship.

North Carolina is known as a basketball hotbed. Thanks to Lexington, Ledford, and Andrews, those of us who call the Sixth District home can truthfully say that we are at the center of the North Carolina basketball universe.

POSTHUMOUS TRIBUTE TO MR. DEWEY W. KNIGHT

HON. CARRIE P. MEEK

OF FLORIDA

ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. MEEK of Florida. Mr. Speaker, Mr. HASTINGS of Florida and I rise to pay tribute to Dade County's quintessential leader, the late Dewey W. Knight. His untimely demise last Wednesday, June 21, 1995, is indeed a great loss for our community, and for all in south Florida.

Mr. Dewey was indeed a delicately drawn character of honest leadership whose power and influence contributed to the transformation of Dade County into the cultural and racial mosaic that it is. Although he lived within the ambience of power, he did not lose his common touch with the common folks from Miami's Liberty City, teaching them the rudiments of government and personal responsibility.

From the sweat of his brow he subsequently earned the financial wherewithal to live comfortably in suburbia. But he chose to stay put in his innercity abode for more than 36 years. Underneath a tree by his home, he held court for the ordinary folks who came and shared with him their problems and concerns, as well as their hopes and dreams. Virtually, he became the innercity's government-in-action par excellence.

Born in Daytona Beach into a home of accomplished Black professionals, he learned early on the basics of honest living, from his grandfather who became Florida's first Black police officer. In the 1930's his lawyer-uncle served in President Franklin Roosevelt's administration. Another uncle spearheaded the Nation's first Black radio station in Atlanta, while an aunt became New York's first Black woman judge.

The years of segregation burdened by the onerous separate-but-equal doctrine molded his character so deeply. He pursued his college education at Bethune-Cookman College after which he volunteered to serve in the U.S. Air Force. Having given his share of service to the Nation, he sought to get his master's degree in social work due to his immense love and caring for children.

It is this compassionate trait that he brought with him when he came to Miami to live for good. Working through the ranks he succeeded immensely in every endeavor, until he was appointed assistant, then deputy county manager. Subsequently after that, his superiors called upon his wisdom and expertise to serve twice as interim county manager until a permanent successor could be named.

Although he was offered the top job many times, he did not court the pump and glamour that came with it. By then he was already imbued with the more enduring respect and camaraderie from his Liberty City neighbors. He opted to retire in 1989, relishing to serve from time to time as a consultant to both government and business.

While his leadership style charmed the mighty and the powerful in county politics and the business elite, he never lost his commonsense approach to government. He played an eloquent, memorable role during the 1980 riots in Miami in a manner evoking a calm but forceful leadership that comes once in a lifetime. He always projected the subtle serenity of maintaining the grace and insight of an old pro. He was indeed a class act, and his personality will cast a giant shadow of void among those he left behind. His presence was at once endlessly fascinating and entirely unforgettable.

We have since learned from him that common people convinced of their role in ameliorating the lives of their fellow human beings are in a better position to shift the balance of power-sharing and coalition-building much more so that those who hold the reins of government. Communality of interests, he advocated, should begin with our doing away with any negative perceptions we have with one another. Any overt or covert suggestion of any form of subtle superiority or inferiority by the one ethnic group over another should never be entertained if we are to bridge the gaps that divide us.

We are touched by his most cogent exhortations during the many community meetings he spearheaded to resolve the ethnic-racial tensions which were then gripping Miami. He would unabashedly state over and over again that living in harmony with each other does not rest in resolutions or promises alone. It ultimately lies in the hearts and minds of common, ordinary folks.

He sought to embolden us into believing that the problems and the opportunities of diversity in any given urban community are not beyond the reach of those who are willing to share the fruits of success won for us by those who came from generations past. He took a bold stand by moving our community to live together in harmony sensitive to our diversity on one hand, and yet strengthened by the power that emanates from it on the other.

''E Pluribus Unum * * *'' From many, we are one. This is the American way, he urged us. His enduring legacy to our community is indeed forever etched in our covenant with one another. We shall miss him so. But we are blessed that his noble presence graced our lives.

COMMENDING THE MEMBERS OF LA SIERRA UNIVERSITY

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CALVERT. Mr. Speaker, it is with great pleasure that I commend the members of the La Sierra University chapter of Students In Free Enterprise [SIFE] for winning the 1995 International Championship at the SIFE International Exposition in Kansas City, MO, May 19.

The students brought back six giant trophies and $7,500 for their championship title and for their win in four special competitions: Success 200, Halt the Deficit, G.E. Foundation ''Teaching America to Compete,'' and Best In-Depth Education.

This year's presentation team consists of eight students: Andy Wongworawat, Redlands; John-Patterson (J–P) Grant, Newbury Park; Heidi Serena, Long Beach; Maria Lafser, Escondido; Patria Wise, Calmesa; Tamara Talbot, Redlands; Steve Taggart, Colton; and

Ismael Valdez, Hemet. John Thomas, assistant professor of economics and finance and SIFE faculty sponsor, accompanied the team to Kansas City.

''The Next Generation'' was the title of La Sierra University's winning presentation, which summarizes the 122 projects the team created this year. Project highlights include the ''Find a Dollar in the Debt'' giant sandbox in February trip helped the community visualize the size of the national debt, the annual Adopt-a-Child Christmas Party for area Headstart children, ''Touch the World/Tech'' a child reading and mathematics tutoring program at a local elementary school, homeless shelter employment weekly seminars, a signature campaign to halt the deficit, SIFE collector ''Slam the Deficit'' POGs for elementary schoolchildren, SIFE-Net cyberspace bulletin board and training sessions, ''Rent-a-Brain'' consulting service for local businesses, SIFE ABC publication series to provide fundamental information on important topics to the community such as drug abuse, interest rates, free trade, social responsibility, and the national debt, Strive-On minority role modeling, and many others.

Some 500 students from 50 college and university teams in the eight regions competed at the international exposition. Dow Chemical CEO and Chairman Frank Popoff was the keynote speaker. The 150 judges for competition were CEO's from Fortune 500 companies.

Approximately 75 La Sierra University students led out in this year's projects, which reached some 15,000 schoolchildren and a total of about 33,000 community people. Fifty of the projects were new this year, while more than 70 were continued from previous years.

The La Sierra University SIFE team swept the western regional competition April 10 in San Francisco, winning the Success 2000 Award and the Halt the Deficit Award, along with the Regional Finalist Award. They came home with three regional trophies and $3,500 cash from that competition, and a chance to compete at the international exposition.

The students of the La Sierra University SIFE team have made their community and their Congressman proud. It is truly an honor to represent such fine individuals and I give them the highest compliments. They deserve it.

IN MEMORY OF JAMES ARTHUR CALLAHAN

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor a very special person from western North Carolina, James Arthur Callahan. Jim Callahan passed away on June 2 at the age of 72. With great sadness, I offer my condolences to his wife, Janie Callahan and his children, Chris Callahan, and Susan McGowan. He was a native of Rutherfordton, NC and a life long member of the First United Methodist Church.

He was active for many years in the Republican Party, serving as county chairman and was also district chairman of the Republican Party for the 10th Congressional District. Jim served the State of North Carolina in many different capacities, he was appointed by Gov. Jim Holshouser to the North Carolina Banking Commission and later, served on the North Carolina Board of Transportation.

Mr. Callahan was a devoted father and leader in the business community. He was president and owner of Callahan Building Supply Co., and a former board member of Lumberman's Merchandising Corp. He contributed much of his time to public service as a former president of the Kiwanis Club, a member of the Rutherford-Spindale Jaycees and as a member of the Rutherfordton County Chamber of Commerce.

His direction helped lead the Rutherfordton County Republican Party to new heights. We should all admire a person like Jim Callahan who believed in the principals of honesty and hard work. When thinking of Jim Callahan, words such as friend, business leader, and patriot come to mind. His efforts in the community will be sorely missed as will he.

THE ENTERPRISE CAPITAL FORMATION ACT OF 1995

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. MATSUI. Mr. Speaker, I am pleased to join my House colleague and fellow member of the Ways and Means Committee, Congressman PHIL ENGLISH, and my Senate colleagues, Senator ORRIN HATCH and Senator JOE LIEBERMAN, in their efforts to promote economic growth and job creation through capital gains incentives. Senators HATCH and LIEBERMAN are introducing the Capital Formation Act of 1995. Hatch/Lieberman utilizes a two-tiered approach: broad capital gains relief and a second targeted capital gains provision. The House has already passed a broad-based capital gains provision earlier this year. The Matsui/English legislation is designed to be complimentary with the Hatch/Lieberman bill and with broad based capital gains passed by the House. Accordingly, it includes only the targeted capital gains provision.

I have worked for many years to enact legislation which provides capital incentives for high-risk, high-growth firms. In 1993, I was able to work with Senator BUMPERS to enact the Enterprise Capital Formation Act of 1993. Matsui/English is bipartisan legislation built on the 1993 legislation. It will be called the Enterprise Formation Act of 1995. Like the Hatch/Lieberman bill, the legislation will provide a 75-percent exclusion for capital gains resulting from direct investments in the stock of a small company—defined as $100 million or less in aggregate capitalization—if the stock is held for 5 years or more.

Biotech and high technology companies are particularly dependent upon direct equity investments to fund research and to grow. A targeted capital gains incentive is crucial for encouraging investors, including venture capital investors, to purchase the stock of these companies, thus putting their capital at risk with a long-term speculative investment. These small venture backed companies create high-skilled jobs, grow to create more jobs—at an average rate of 88 percent annually—and are aggressive exporters. According to one survey, their export sales grew by 171 percent annually. Finally, these companies are R&D intensive which means they are essential in keeping American workers and products on the cutting edge of innovation.

REFORM OF THE REA ELECTRIC LOAN PROGRAM

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BAKER of Louisiana. Mr. Speaker, I rise to discuss an important issue that has received little attention thus far in the 104th Congress: reform of the REA's subsidized loan program for electric cooperatives.

The REA has long been the target of loud criticism by many who believe the Federal Government's role in direct, subsidized lending to utilities should be curtailed. The REA has changed its name to the Rural Utilities Service [RUS], but it continues to provide subsidized loans to many healthy, financially stable electric co-ops at a cost of millions of dollars each year. Legislation I have introduced today, the Rural Electrification Loan Reform Act, would bring reform to this program which needs an overhaul.

I believe we should reform the REA electric loan program in a manner consistent with the free-market principles that motivate our balanced budget proposal. The concept driving this reform legislation is simple: If an electric co-op is able to obtain credit at a reasonable rate and terms from private lenders, then that co-op should not be able to participate in the taxpayer-subsidized REA program. The Federal Government simply should not be the lender of first resort for many of these co-ops. Other Federal programs, including Small Business Administration [SBA] and Farmers' Home loans, now use this reasonable credit-elsewhere test in an effective manner. Farmers and small businesses must try to obtain credit from banks and other private lenders before turning to Federal loan programs. We should enact this reform to bring the REA program in line with other Federal lending programs.

Instituting a credit-elsewhere test is a responsible way to reform the program in order to push the healthier electric co-ops toward private lenders, while preserving a scaled-back REA subsidized loan program for the struggling co-ops in the most distressed parts of rural America. My legislation will not terminate this REA program. Rather, it would concentrate the loan program for only those co-ops that can show a true need for assistance. Many do not realize that most electric co-ops now must obtain 30 percent of their financing from private sources, while the other 70 percent comes from the REA loan program at a subsidized interest rate. Congress should require co-ops to try to obtain 100 percent of their credit from a source other than the Federal Government, and retain the REA program for those co-ops that cannot access private capital. I certainly recognize the continuing need for subsidized credit assistance in some parts of rural America—including some parts of rural Louisiana. And if this legislation is enacted, these areas would continue to receive loan assistance from the REA program. But Congress must now make many difficult choices if we want to reach a balanced budget by 2002. I believe these are Federal dollars which could be better spent.

As a longtime member of the House Banking Committee and the current chairman of the Subcommittee on Capital Markets, I have an interest in encouraging the use of private sources of credit wherever possible. I believe there is a larger, more active role private lenders can play in addressing the credit needs of electric co-ops. I ask the House Agriculture Committee to hold hearings to explore these reforms of the electric loan program.

FORTY YEARS TO CARE, MOST WITH A FOCUS OF HOPE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BARCIA. Mr. Speaker, what do you do when you have someone who keeps coming to you saying that there is a problem, and something needs to be done about it? You let them come up with the solution. That is exactly what happened nearly 27 years ago when the Bishop of the archdiocese of Detroit told Father William T. Cunningham, Jr., that he had his permission to stop teaching as an English professor at Sacred Heart Seminary, become a pastor of Madonna Catholic Church, and the full-time director of Focus: HOPE, an organization he cofounded. In this fashion was born a wonderful organization many of us know as Focus: HOPE, and the beginning of a relationship for millions of Michiganders who have come to know and love Father William Cunningham, who this weekend celebrates his 40th anniversary as a Roman Catholic priest, with masses at his home parish of our Lady of the Madonna.

I am privileged to call attention to the accomplishments of Father Cunningham because he originally comes from Ruth and Ubly, in the thumb of Michigan in my congressional district. He comes back frequently and is well-known to many of my constituents. He has been a parish priest, a teacher, and a leader. He has been a friend and helper to many, and a bane to others who failed to share his belief that people need a helping hand out of poverty. He is caring. He is irascible. He is tender. He is tenacious. He is unique.

Father Cunningham has helped spearhead efforts to revitilze portions of Detroit that had been ravaged by riots, and more importantly to reinvigorate the people who had to live with the riots themselves, or with the aftereffects of the riots. He helped push for food programs for women, infants, and children. He helped push for food assistance to the needy elderly. He worked tirelessly for the creation of a machinists training institute that has grown to a world-class facility, winning quality awards, and helping people get well-paying jobs have a future. He has succeeded in using food as the first step toward independence, and many of us have heard him say time and time again that his fondest hope is that one day he can close the food program and throw away the key because everyone has all the food they need.

Over the years, people never cease to be amazed by his seemingly inexhaustible energy. They are warmed by his bright smile, sometimes beguiled and other times delighted by the twinkle in his eye. After a period of time one learns better than to ask ''so what is your next project,'' especially when one understands that his churning mind is 50 percent innovation, 50 percent determination, and 50 percent divine intervention. It just isn't fair for anyone to deal with him.

Mr. Speaker, Father Cunningham is devoted to his church, devoted to his cause, and devoted to people. He is truly a model of what is best in our Nation. If each State had just one Bill Cunningham. I shudder to think what we could accomplish. I urge all of our colleagues to join me in wishing him the happiest and most blessed 40 anniversary of his ordination to the priesthood.

A CONSTITUTIONAL AMENDMENT TO LIMIT CAMPAIGN EXPENDITURES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DINGELL. Mr. Speaker, in a recent meeting between you and the President, it was agreed that you would support the creation of a blue-ribbon panel to recommend long-overdue reforms to our campaign finance system.

It has been almost two decades since some of the reforms enacted by Congress in the Federal Election and Campaign Act of 1971 [FECA] were overturned in the landmark Supreme Court case Buckley versus Valeo. The Court ruled that while the Federal Government has an overriding interest in limiting campaign contributions to candidates, it has no compelling reason to limit expenditures under any First Amendment test of free speech and expression. The Court concluded that, unlike limits on contributions, spending caps serve no legitimate purpose in guarding against corruption of the electoral process.

However, several years ago a bipartisan commission, the Committee on the Constitutional System, concluded that one of the greatest threats to our political system is the rapidly escalating cost of campaigns and the growing dependence of incumbents and candidates on money from donors who might expect a favorable vote in exchange for a contribution. Moreover, the Commission found that gridlock could take hold by leaving office holders open to multiply-conflicted opponents, all of whom may believe their contributions should engender a legislator's support. Such activities frustrate all participants in the system and encourage the promulgation of unsound public policy.

The Committee on the Constitutional System concluded that there was only one effective way to fix the problem, through an amendment to the United States Constitution. There is no doubt that concerns about limiting the quantity of speech will be vigorously debated. They should be, since no one should take lightly any proposal to amend that sacred document. However, limits on some kinds of speech, such as debate on the floor of this chamber, are well established as necessary to orderly deliberation. The underlying logic of time limits on debate is the realization that unlimited speech inhibits our ability to govern.

In his dissenting opinion to Buckley versus Valeo, Justice White wrote, ''Expenditure limits have their own potential for preventing the corruption of Federal elections themselves.'' 424 U.S. 264, (1976).

The amendment I propose contains 13 words: ''The Congress shall have authority to limit expenditures in elections for Federal office.'' While brief, the weight of these words is mighty. This amendment, possibly combined with other reforms, would allow the Federal election process to be returned to the people, and permit those who seek and hold elective office to place their energies into solving public policy problems rather than political problems.

I hope that any commission designated to make a recommendation to Congress on campaign finance reform consider the virtue of turning off the constant flow of cash into Federal campaigns through a Constitutional amendment to limit campaign expenditures.

INTRODUCTION OF GILPIN COUNTY EXCHANGE LEGISLATION

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SKAGGS. Mr. Speaker, I am joining my colleague from Colorado, Mr. MCINNIS, to introduce a bill to facilitate acquisition by the United States of more than 8,700 acres of lands elsewhere in Colorado that are important for recreational and environmental purposes, in exchange for about 300 acres of Federal lands near the town of Black Hawk, in Gilpin County. The bill is similar to one I introduced in the last Congress, on which action was not completed before adjournment.

Under the exchange, the Gilpin County lands would be transferred to Lake Gulch, Inc. There are 133 separate parcels, ranging in size from 38 acres to 0.01 acre, and 90 of them are less than an acre. This part of Colorado was originally acquired by the United States from France through the Louisiana Purchase. After the discovery of gold in Gilpin County, most of the lands in question were claimed under the mining laws and thus passed into private ownership. The 133 parcels the bill would earmark for transfer are leftover fragments.

The Gilpin County lands are essentially unmanageable, and have been identified as suitable for disposal by the Bureau of Land Management [BLM]. However, they can be consolidated with other lands already held by Lake Gulch. Thus, they do have some value for Lake Gulch, but because of their fragmented nature the United States cannot readily realize that value through normal BLM disposal procedures because of the high costs of surveys and other necessary administrative expenses. Enactment of the bill will enable the United States to realize this value, through the acquisition of lands with values, including potential for recreational uses, which give them priority status for acquisition by Federal land-management agencies.

Under the bill, the Gilpin County lands would be transferred to Lake Gulch if that corporation, within 90 days after enactment, offers to transfer the specified lands to the United States. Lake Gulch would be required to hold the United States harmless for any liability related to use of the Gilpin County lands

after their transfer, and future uses of those lands could not include gaming. The bill also protects the interests of local governments in the lands, including an easement for a county road.

The lands that the United States would receive under the exchange include about 40 acres within Rocky Mountain National Park—known as the Circle C Church Camp tract—that has been a long-time acquisition priority for the National Park Service; nearly 4,000 acres in Conejos County—known as the Quinlan Ranches parcel—bordering on the scenic La Jara Canyon, that is intermingled with Federal lands managed by the BLM and the Forest Service and that has recreational values as well as elk winter range and other wildlife habitat; and about 4,700 acres—known as the Bonham Ranch—that is intermingled with BLM-managed lands along Cucharas Canyon in Huerfano County and whose acquisition will enable BLM to protect more than 5 miles of the scenic canyon, with its important wildlife habitat—including raptor nesting areas—cultural resources, and recreational uses.

In addition, if the Secretary of the Interior should determine that the value of the Gilpin County lands is greater than the value of the lands transferred to the United States, Lake Gulch will be required to pay the difference. Any such payment would be used to acquire from willing sellers land or water rights to augment wildlife habitat in the BLM-managed Blanca wetlands near Alamosa, an area with crucial winter habitat for bald eagles and a very productive area for ducks and geese.

Mr. Speaker, this bill is good for economic development in Gilpin County and good for protecting the priceless environment of Colorado. I believe it is completely noncontroversial. It has the support of Governor Romer, the Colorado Division of Wildlife, and affected local governments including Black Hawk, Central City, and Gilpin County. It is also supported by a broad coalition of environmental and conservation organizations, including the Colorado Environmental Coalition, the Colorado Wildlife Federation, the National Parks and Conservation Association, the National Audubon Society, the National Wildlife Federation, the Wilderness Society, and the Rocky Mountain chapter of the Sierra Club. I intend to work hard for its enactment into law during this session of Congress.

SAM HELWER AND FRANK P. BELOTTI MEMORIAL FREEWAYS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. RIGGS. Mr. Speaker, this month, two portions of U.S. Highway 101 in California's First Congressional District will be dedicated in honor of noted Californians—Sam Helwer and Frank P. Belotti.

Sam Helwer was born in Russell, KS, on August 23, 1913. He served as district engineer for the State of California, Department of Transportation, district 1, from 1957 to 1967. Beginning his career in 1936, he eventually served with five department of transportation districts. He developed a particular expertise in freeway interchange design. As district 1 engineer, he was responsible for all units of the northwestern California highway system, running approximately 300 miles north and south, and 70 to 80 miles from east to west, including a portion of historic Highway 101. In 1964, he was able to expedite the recovery of the north coast's highway system from a record winter storm.

Frank P. Belotti served as a member of the California Legislature from 1950 to 1972. He was an effective advocate of preserving the unique scenic beauty of the redwood groves and was instrumental in securing the legislation that made possible the freeway bypass of the groves and the preservation of the existing State highway designated as the ''Avenue of the Giants.''

It is a fitting tribute to each of these men that portions of the highway that meant so much to them is being named in their honor. I offer my congratulations to their families, including Mrs. Sam ''Dordy'' Helwer of west Sacramento, and Mrs. Delphine Belotti of Eureka.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. POMEROY. Mr. Speaker, on rollcall number 216, I was unavoidably detained at the Base Closure and Realignment Commission [BRAC] meeting. The Commission members were voting on matters directly impacting my State of North Dakota. Had I been present, I would have voted ''aye'' on rollcall number 216.

GRANDPA MOSES

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HYDE. Mr. Speaker, ingenuity and imagination are cherished commodities in an era which demands that we do more with less. Our continued prosperity demands that we challenge our minds, see beyond the obvious, and extend our vision. It is our intellect that sets us apart.

Mr. John Urbaszewski of Oak Park, IL, provides a very practical example of the creativity of the mind and the power of imagination.

A retired, State-government employee, keenly intent on staying active and keeping his mind sharp, Urbaszewski, without benefit of a single art lesson, has become a very popular, local folk artist, affectionately referred to as ''Grandpa Moses.''

What most of us identify as abandoned soda bottles, plastic coffee creamers, old buttons, film packs, cereal boxes, cocktail stirrers, and other such ''trash,'' Urbaszewski sees as the basic building blocks for his versions of Frank Lloyd Wright's Mile High Center skyscraper, the Taj Mahal, Rome's Piazza di Spagna, Brasilia's baroque opera house, and Disney's castles. His creations, all constructed from rubbish, also include birdhouses, restaurants, office buildings and cathedrals.

Packing many of his art works into the Grandpa Moses Mobile Traveling Museum, Urbaszewski has visited numerous schools and shopping centers exhibiting his creative talents and stimulating the minds of his audiences. His storefront and museum exhibits are instant show stoppers and crowd pleasers.

Grandpa Moses clearly demonstrates the creative powers of the mind in a very entertaining and practical manner.

CONGRATULATIONS DELPHI CHASSIS SYSTEMS SAGINAW—LIGHTWEIGHT BRAKE CORNER CAPITAL OF THE WORLD

HON. JAMES A. BARCIA

OF MICHIGAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BARCIA. Mr. Speaker, many of us have believed for years that the best cars are made in the United States, and that the best continue to be build here today. I rise today with my colleague, Representative DAVE CAMP, to honor these world-class workers who are celebrating 25 years of manufacturing automotive brake components and systems at Delphi Chassis Systems—Saginaw Operations.

The 1,400 workers and management of this outstanding facility will celebrate this 25th anniversary with a Family Day, this Monday, June 26. They will celebrate the production of the 175 millionth quality brake corner at this location. Plant manager Pat Straney and UAW Local 467 shop chairman Kent Wurtzel can be proud of their achievement. They have worked to produce the best product that they possibly can, while recognizing that they must constantly enhance the skills of their workers to keep their competitive edge. The plant quality council composed of both labor and management has implemented quality network action strategies that have improved the product for the benefit of consumers.

Car and truck buyers have been positively impacted by this facility every time they push their brake pedal. The consistently high quality of the components and the simplification of the brake mechanism bring people throughout the country to safe stops millions of times each day.

Mr. CAMP. I fully concur with the remarks of my colleague. The investment of over $90 million to bring in new brake manufacturing technology will set world class manufacturing benchmarks for future General Motors products. Supported by the city of Saginaw and the State of Michigan, this upgrade secures the future of this outstanding facility in the Saginaw Valley.

Mr. Speaker, our workers and our businesses are world leaders, and can compete with anyone in the world in a fair and open market. They have succeeded before, are succeeding now, and will continue into the future. Congressman BARCIA and I urge all of our colleagues to join us in wishing Delphi Chassis Systems Saginaw Operations—the Lightweight Brake Corner Capital of the World—a very happy 25th anniversary, and best wishes for a most prosperous future.

TRIBUTE TO THE 125TH ANNIVERSARY OF THE PHILADELPHIA CHINATOWN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise to commemorate the 125th Anniversary of Philadelphia's magnificent Chinatown.

In 1870, a small laundry was established on Race Street, between 9th and 10th. From that single, small business a bustling community grew. In 1995, the Chinese American community is proudly celebrating the 125th anniversary of Chinatown with events throughout the year. Chinatown has developed into one of the most significant contributors to the Social, economic, and cultural vitality of Philadelphia. Indeed, Chinatown is the city's premier marketplace for Chinese food and oriental products, but it is so much more. It is a meeting place for friends and relatives. It is a home and source of comfort for newly arrived immigrants. Chinatown is where traditional culture is preserved and ethnic identify perpetuated. The central event of Chinatown's 125th Anniversary will be a parade and dedication ceremony at 2:00 p.m. on Sunday, June 25th. The starting and ending point of the parade and the location of the ceremony will be where Chinatown started—Race Street between 9th and 10th. Other celebration events include an art exhibit by Asian American artists; a benefit recital; and an ''Honor The Elders Day.''

Chinatown's rich, historical roots and ethnic diversity have contributed greatly to the City of Brotherly Love. I am proud of the contributions of the Philadelphia Chinatown and I congratulate Chinatown on its 125th Anniversary.

TENTH ANNUAL FILM FESTIVAL OF PARIS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BENTSEN. Mr. Speaker, today I rise to bring the attention of the House to an extremely special constituent in my district, Ms. Julie L. Harms. Ms. Harms, a student at Bellaire High School, has recently added another major accomplishment to an already impressive list. Ms. Harms has been selected to represent the United States as a member of the Jury Panel at the Tenth Annual Film Festival of Paris. The selection process, which is coordinated by the U.S. Information Agency, is a nationwide competition that picks only 2 candidates, one male and one female.

Young men and women from 15 countries will be taking part in the festival as jurors and judge various films from all over the world. while in Paris, the film jurors will meet with political and film industry leaders. The Tenth Annual Film Festival will also provide these outstanding men and women the opportunity to view many of the outstanding historical and cultural landmarks in Paris.

Mr. Speaker, I want to recognize this exceptional young woman and her distinguished colleagues for this wonderful accomplishment. Thank you.

WOMEN IN MILITARY SERVICE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. KENNELLY. Mr. Speaker, today, our country honors U.S. servicewomen at a groundbreaking ceremony for the Women in Military Service for America Memorial at Arlington Cemetery.

When this memorial is completed, it will contain the names of all U.S. servicewomen, past and present, along with a photo and biography. They will be women who served in peacetime and war, women who still serve this country as veterans and those who gave their lives.

The list will include Connecticut women like Wanda Charlinsky who is president of her local WAVES unit; Viola Bernstein, active in the Jewish War Veterans; Linda Schwartz, a member of the National Board of Vietnam Veterans of America, and Cindy Beaudoin who gave her life during the Persian Gulf war.

This memorial will be a reminder to the Nation that our liberty and freedom were secured with the efforts of more than 2 million women who dedicated themselves to our country and our ideals.

It is also a symbol of the respect of a grateful country.

SAFE MEDICATIONS ACT OF 1995

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. COYNE. Mr. Speaker, I rise today on behalf of myself and my colleagues Representatives PETE STARK and JOHN LEWIS to reintroduce the Safe Medications Act. This bill improves public health and safety by creating a clear and uniform reporting system for deaths that occur while prescribing, administering, or dispensing drugs. Needless tragedies would be avoided by its enactment.

Billions of prescriptions are written, dispensed, or administered in hospitals, pharmacies, and other health care facilities across the United States every year. Yet, if something goes wrong during drug therapy there is no requirement for facilities to report adverse incidents. As a result, the public could be vulnerable to recurring drug-related mishaps and fatalities that are preventable.

Occasionally, a health care professional misreads a prescription, administers the wrong dosage of a drug, or dispenses medication incorrectly. These errors will sometimes have little or no consequence. Other times, they may produce fatal results. When an individual dies in these cases, there is no place for the practitioner to report the death. Ultimately, the same mistake can be made a number of times. Repeated errors lead to unacceptable risks to patient safety and public health.

Let me sketch how patients and consumers are susceptible to multiple errors. A young boy in New York died when he was administered the wrong dosage of a sedative. A similar incident happened with the same drug to a 4-year-old girl in Texas. In another instance, a community pharmacist confused the names of morphine and meperidine which resulted in the death of a child. A parallel event proved fatal when a physician confused the names of painkillers. Finally, confusion over like drug names led to a mistaken and ultimately fatal dosage of a medication for a bone-marrow-transplant patient. This drug was involved in a comparable case when, again the name of the drug was confused and the patient was overmedicated. These events show a pattern of drug therapy deaths that could have been avoided and prevented had they been monitored and had medical workers been made more aware of the potential for mistakes.

In October, 1993, the Pittsburgh Post-Gazette published a series of articles that detailed medication errors. Reporter Steve Tweedt's series contained some disturbing statistics in this area. He reported that a Pittsburgh-Post Gazette study of 250 hospital pharmacists across the country estimated that there were 16,000 medication errors in their institutions in 1992; 106 of them caused patient deaths.

Presently, there are a variety of reporting systems. Only two States require reporting; New York has a mandatory program for hospitals and North Carolina has a required reporting system for pharmacies. However, nothing obliges these States to share the information they collect with other States.

Nationally, there are two primary voluntary reporting systems that track errors and deaths that result from drug therapy. The U.S. Pharmacopeia [USP], working with the Institute for Safe Medication Practices, has received over 1,100 reports since it was established in 1991. And, it is estimated that the voluntary system operated by the Food and Drug Administration [FDA], MedWatch, collects information on only 1 percent of the errors that occur. Since these reports are voluntary, however, it is unclear what the actual error and death rate is what their tracking represents.

At the Ways and Means Health Subcommittee hearing on this issue last September, David Work, the executive director of the North Carolina Board of Pharmacy, testified that ''about 10,000 deaths occur nationwide from pharmaceuticals each year.'' Joshua Perper, M.D., chief medical examiner, Browder County, FL, cited in his testimony a study published in the New England Journal of Medicine in 1991 that charted an annual mortality rate of 503 per 100,000 hospital discharges due to drug errors.

These trends can and must be changed. We must have a greater understanding of these incidents and take precautions to see that they are not repeated. The Safe Medications Act of 1995, which I am introducing today, provides a solution to this problem and would significantly improve the public health.

The Safe Medications Act creates a national data bank for information on deaths that result from the prescribing, dispensing, or administering of drugs. This data bank would be maintained by the USP for the Secretary of Health and Human Services.

Within 10 working days after the discovery of a death due to the prescribing, dispensing, and administering of drugs, the health care facility in which the error occurred would be required to report the incident to the U.S. Pharmacopeia.

The Secretary will analyze these reports and work with USP and the appropriate health care provider associations so that they can

notify and alert their constituencies of potential problems.

The identity of the facilities that report deaths would remain confidential.

Finally, this bill would not supersede any voluntary reporting systems or State systems in place.

It is clear that a central reporting system is long overdue and needed. The medical community must develop a greater awareness and understanding of fatal drug reactions and must ensure that they are not repeated. The fundamental goals and benefits of the Safe Medications Act are indisputable. I urge my colleagues to support this important health care measure.

HONORING THE 40TH ANNIVERSARY OF THE ORDINATION OF FATHER CUNNINGHAM INTO THE PRIESTHOOD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CONYERS. Mr. Speaker, I rise today to celebrate the 40th anniversary of the ordination of Father William T. Cunningham into the priesthood, which he will observe this Sunday, June 25, at the Catholic Church of the Madonna, in Detroit, MI. Father Cunningham has served as pastor there since 1969.

Father Cunningham is a life-long Detroiter and has committed his life to social and economic justice in Detroit. In 1968, following the Detroit riots, Father Cunningham founded Focus: HOPE, a civil and human rights organization with the goal of resolving the effects of discrimination and injustice and to build integration in our riot-torn community. Over the years, Focus: HOPE grew to develop the Food Prescription Program, which distributes USDA commodities to 52,000 low-income mothers and children each month, and developed the Food for Seniors Program, which provides a monthly food supplement to 34,000 elderly poor in the Detroit area.

Under Father Cunningham's leadership, Focus: HOPE expanded its scope in the 1980's to include manufacturing training. Today three manufacturing technology training programs function for minority youth and others. The latest, and most advanced, is the Center for Advanced Technologies which opened 2 years ago. This national demonstration project offers a 6-year curriculum which combines structured work experience with applied engineering study conducted by a consortium of Michigan universities. Graduates will be engineer/technicians; able to build, operate, maintain, repair, and modify advanced manufacturing equipment at world-competitive levels.

Father Cunningham has served on a number of public service boards including the State of Michigan's Task Force on Vandalism and Violence in the Schools, the State and city Task Forces on Hunger and Malnutrition, the State Holiday Commission for Martin Luther King Jr., the Citizens Commission to Improve Michigan Courts, and many others.

Father Cunningham's accomplishments have not gone unnoticed. He has been honored with many notable awards including the NAACP's Ira W. Jayne Memorial Medal, the Temple Israel Brotherhood Award, the Bishop Donnelly Alumni Award, the Jefferson Award, the UCS Executive of the Year Award, the Jessie Slaton Award of the Detroit Association of Black Organizations, the National Governor's Association Award, twice, the 1987 Detroit News Michiganian of the Year Award, the Salvation Army's William Booth Award, the Marquette University Alumni Award, and the University of Michigan 1993 Business Leadership Award and honorary membership in the Society of Manufacturing Engineers.

Father Cunningham has dedicated his life to serving others. After 40 years in the priesthood and more than 26 at the helm of Focus: HOPE, Father Cunningham has touched the lives of thousands. In this day and age, with our city suffering from decades of neglect, it is important to recognize the accomplishments of those who have dedicated themselves to improving the lives of those less fortunate. So I hope that you will all join me in congratulating Father Cunningham for his years of hard work and perseverance. Detroit is a better place to live because of Father Cunningham's hard work and dedication to making Detroit healthier, stronger, friendlier and more prosperous. Father Cunningham is a true hero.

OUTSTANDING VOLUNTEERISM FROM RIVERSIDE ROTARY CLUB

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CALVERT. Mr. Speaker, one of the things that makes America truly great is our spirit of volunteerism—the willingness of citizens from all backgrounds to give of their time and their efforts to make the community better in which they live and work. One organization that has been a shining example of this is the Riverside Rotary Club. During its 75-year history, members have worked to make Riverside a better place for all its residents.

In its recent history, Sherm Babcock was our Rotary Club president for the 1970–71 year. Sherm started out by going to the international convention in Atlanta, GA. He also led a large delegation of Rotarians to the district assembly the following month.

A significant administrative charge took place with the new position of sergeant at arms. Frank Lindeburg, an entertaining character, was the fine master and made the change a success. To this day the position of sergeant at arms is a coveted position in our club.

Sports were a big transition in Rotary in Sherm's year. Some of the activities were: the club sponsored a team in the UCR baseball tournament; the club fielded a team in the service club bowling league; and a number of golf tournaments were conducted.

The scholarship fund that had been initiated the prior year by past president John Cote was enhanced considerably. Today, this scholarship fund exceeds $170,000 and numerous academic scholarships are awarded each year to deserving high school students.

During the 1970's, Rotary was led by many prominent individuals. Jack Williams, president in 1971–72 led our club in constructing platforms for tents at the Boy Scout camp in Idylwild—was also instrumental in having our club donate a wheelchair to the UCR Health Center.

Ralph Hill, President in 1972–73 kept up the good work from prior years and added to it by hosting the United Fund Kickoff luncheon. This was significant since many of our members were key contributors to the United Fund.

In 1973–74 Rotary was involved in many events. Irv Hall led the club this year. Some different things Rotary became involved in included sending scholarships to Cuautia, Mexico, which was a sister city of Riverside. Rotary also contributed to the Ralph Johnson Memorial at Twin Pines Ranch. The old YMCA building, known as the Gheel House, had its interior painted by Rotarians. The club also enjoyed itself through a trip to the *Queen Mary.*

In 1974–75 Jim Davidson, our president, continued work at Twin Pines Ranch through the club's donation for the ranch's swimming pool. We also celebrated a joint meeting with the Soroptomists, a women's organization dedicated to community service.

The Mission Inn had been closed for some time but in 1975–76, Herman Reed's year as president, we moved back to the Mission Inn. Apparently, it was a welcomed return since the club had been having problems with the different establishments in which it had been meeting.

During this 1975–76 year many service projects were accomplished. Rotary contributed carpeting and linoleum to the Riverside County Association for Crippled Children. We also contributed significantly to the Special Olympics. As usual, we celebrated our special meetings for our significant others as well as our continued sponsorship of the ROTC awards at Poly High School.

In 1976–77 Bill Williams was our president and he led the club in starting the ambitious project of repairing and remodeling the kitchen portion of the Carriage House which is located in the Heritage House property. This required many Rotarians to roll up their sleeves and do some worthwhile manual labor. The results, which were realized some years later, were outstanding and very much appreciated by the community.

Frank Lindeburg, our president for 1977–78 was active in continuing the Carriage House project. We also organized an auction which was tied into the party for a club fundraiser. Being the UCR athletic director, he organized a baseball game against the Riverside Kiwanians. He was also instrumental in designing a program for the fire department's emergency program. The club's budget seemed to be in good shape because Frank led the club to invest its surplus funds. And, of course, the food service at the Mission Inn came under some criticism. Some things never change.

In 1978–79, San Landis was club president and kept the club operating smoothly. The work at the Carriage House was still going on and the usual special meetings with our wives and others brought enjoyment to all.

Ron Drayson, our president in 1979–80, kept the Carriage House project going. He was also responsible for sponsoring the 4H contest which was held at the Agricultural Park. He redesigned club banners presented to visiting Rotarians and organized a Riverside-San Bernadino golf match at Arrowhead Country Club.

The new work project was undertaken under the presidency of Greg MacDonald in 1980–

81. Greg being one of our youngest presidents, had a lot of energy and was responsible for starting the work on Agricultural Park.

John Beal, our president in 1981–82, had an extraordinary year for the club. He was reponsibile for inviting the then Rotary international president, Stan McCraffey, to Riverside to speak at the Paul Harris Foundation Dinner at Raincross Square. This was the only time in Riverside Rotary's history that the international president had visited our community.

John also organized the only joint effort ever held with the Kiwani's Club of Riverside. The joint meeting was held to honor members of the law enforcement community. The speaker was the then-Attorney General, George Deukmejian. John also had the club host the District 4 speech contest along with having club members man the Salvation Army Kettle.

In 1982–83 Gene LaHusen became president and continued the work on the Agricultural Park. Harvey Ostzon, president in 1983–84, was most responsible for making the Agricultural Park a reality. He led the work parties to refurbish the park. He also led the club in organizing an auction which was a major fundraiser.

In 1984–85, Frank Gooley was our president and promptly faced a problem about where we would meet since the Mission Inn was closing down for restoration purposes. We finally moved to the UCR commons and then to the Holiday Inn. Frank's major accomplishment was organizing a raffle with the other Rotary Club's in the city which raised $13,500 for the Agricultural Park.

Paul Birgdain, our leader during the 1985–86 year kept the club moving along in fine fashion. We finished our work at the Agricultural Park during Paul's year.

Bill McGuian became our president for the 1986–87 year which became significant in club history since ours was the first club in the district to admit a woman member. Sandra Leer, a family law practitioner, was sponsored by Tom Holienhorst and was our first female member. Bill also saw our meetings moved to the Sheraton Hotel as the Mission Inn was still being restored. The Riverside East Club, a new Rotary club, was nurtured by our club as well as hosting the GSE team from Australia. This was the year we established our scholarship committee as a permanent standing committee.

Lee Lombard, our president in 1987–88, started the Dinner Theater which became our principal fundraiser. We also hosted the GSE team from Denmark. It was in Lee's year that the Rotary International committed to eradicating polio worldwide. Our club successfully contributed to the program under Lee's leadership.

Palle Gylov became our president in 1988–89 and vigorously promoted the Dinner Theatre which was a resounding success. Palle also held up well during his year considering that our long time executive secretary, Floretta Pico, retired during his tenure.

In 1989–90 Bob Probizanski, our new president, continued the tradition of the Dinner Theatre. He involved many Rotarians and it continued to be the highlight of our Rotary year. He also organized a tour of the jail newly constructed in downtown Riverside.

Hark Kline, our president in 1990–91, continued the Dinner Theatre tradition with a new twist: it became the Mystery Dinner Theatre. Although a little lengthy, it still raised funds for our club for the good works we were contributing to. We also attended a Red Wave baseball game, a new minor league team, based in Riverside and playing out of the UCR Sports Center.

De Armstrong, our president for 1991–92, continued trying to solve the problem about where our club should meet. We moved to the Art Museum during his year. De, being a musician, did a tremendous job in organizing our Dinner Theatre, adding a touch of class with his musical talents.

The highlight of Jim Milam's year was the visit of then President Bush to Riverside. Rotary was the host and it was a great success as many Rotarians from all over the district attended to listen to our President.

During Jim's Year, Rotary reached out to our youth by adopting an elementary school in the downtown area. Bryant School became the recipient of work projects by Rotarians, of books donated to the school, and of the presence of Rotarians at monthly school assemblies.

Gary Orso, club president in 1993–94, saw the club return to the Mission Inn as well as continuing the Bryant School project. The Dinner Theatre tradition continued but was augmented by a silent auction which was responsible for raising a significant sum of money for our community projects. Of course, our youth continued to be served by our club through our contributions to RYLA and our scholarship program.

Bob Brown became our president in 1994–95 and had overseen the celebration of the club's 75th anniversary. Being recognized by our District 5330 at numerous district events has brought price to our club. The Bryant School project has been expanded to include tutoring and mentoring to club members. Students from Bryant School worked with our club and the Riverside Downtown Association in planting a Rotary garden in the downtown area. Although finances have always been a problem Bob has led the club through the toughest of recessionary times and the future looks very bright.

Indeed, Mr. Speaker, the Riverside Rotary Club has been an important fixture in the Riverside community. On behalf of the people of the 43d Congressional District, I wish to extend my thanks and sincere congratulations for their exceptional work throughout the community during their 75-year history.

Daily Digest

HIGHLIGHTS

Senate passed National Highway System Designation Act.

Senate

Chamber Action

Routine Proceedings, pages S8841–S8962

Measures Introduced: Five bills were introduced, as follows: S. 955–959. **Page S8945**

Measures Reported: Reports were made as follows:

S. 457, to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S.J. Res. 27, to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois. **Page S8945**

Measures Passed:

National Highway System Designation Act: Senate passed S. 440, to amend title 23, United States Code, to provide for the designation of the National Highway System, after agreeing to a modified committee amendment in the nature of a substitute, and taking action on amendments proposed thereto, as follows: **Pages S8849–55, S8875–85, S8924–35**

Adopted:

(1) Exon Amendment No. 1462, to increase safety at railroad-highway grade crossings. **Pages S8851–53**

(2) Chafee (for Smith/Gregg) Amendment No. 1464, to establish that New Hampshire shall be deemed as having met the safety belt use law requirements at a rate of not less than 50 percent. **Pages S8875–76, S8885**

Subsequently, the amendment was modified. **Page S8885**

(3) Warner/Chafee/Baucus Amendment No. 1465, to make technical changes and modifications. **Pages S8878–79**

(4) Nickles Amendment No. 1466, to permit States to use assistance provided under the Mass Transit Account of the Highway Trust Fund for capital improvements to, and operating support for, intercity passenger rail service. **Page S8882**

(5) Stevens/Murkowski Amendment No. 1467, to restrict the Department of the Interior from finalizing a rule with respect to Revised Statute 2477 until December 1, 1995, regarding the right-of-way for the construction of highways over public lands. **Pages S8924–25**

Withdrawn:

Exon Amendment No. 1463, to establish that any federal regulatory standard for single trailer length issued pursuant to negotiations authorized under the North American Free Trade Agreement shall not exceed fifty-three feet. **Pages S8853–54, S8877**

Peace in South China Sea: Senate agreed to S. Res. 97, expressing the sense of the Senate with respect to peace and stability in the South China Sea, after agreeing to committee amendments. **Page S8962**

Private Securities Litigation Reform Act: Senate began consideration of S. 240, to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act, with a committee amendment in the nature of a substitute. **Pages S8885–S8924, S8935–43**

During consideration of this measure today, the Senate took the following action:

By 69 yeas to 19 nays, 1 responding present (Vote No. 281), Senate tabled a motion to commit the bill to the Committee on the Judiciary. **Pages S8922–24**

Senate will resume consideration of the bill and amendments to be proposed thereto, on Friday, June 23.

Message From the President: Senate received the following message from the President of the United States:

Transmitting notice of the termination of the suspension of licenses for the export of cryptographic items to the People's Republic of China; referred to the Committee on Foreign Relations. (PM–57). **Page S8943**