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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LAHOOD].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 13, 1995.

I hereby designate the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we go on with our lives and seek to be the people You would have us be, we pray, almighty God, that we would heed the words of the scriptures and do justice, love mercy, and ever walk humbly with You. May that primary perspective of mercy and justice be our conviction as we seek to live our lives in service to others. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. OXLEY] come forward and lead the House in the Pledge of Allegiance.

Mr. OXLEY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1976) ''An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.''

The message also announced that Mr. BENNETT be a conferee, on the part of the Senate, on the bill (H.R. 1868) ''An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes,'' vice Mr. GRAMM.

The message also announced that Mr. SHELBY be a conferee, on the part of the Senate, on the bill (H.R. 2002) ''An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes,'' vice Mr. GRAMM.

The message also announced that Mr. CAMPBELL be a conferee, on the part of the Senate, on the bill (H.R. 2020) ''An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes,'' vice Mr. GREGG.

The message also announced that Mr. CAMPBELL be a conferee, on the part of the Senate, on the bill (H.R. 2099) ''An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices, for the fiscal year ending September 30, 1996, and for other purposes,'' vice Mr. GRAMM.

The message also announced that pursuant to Public Law 95–521, the Chair, on behalf of the President pro tempore, appoints Thomas B. Griffith as Senate Legal Counsel, effective as of October 24, 1995, for a term of service to expire at the end of the 105th Congress.

The message also announced that pursuant to Public Law 95–521, the Chair, on behalf of the President pro tempore, appoints Morgan J. Frankel as Deputy Senate Legal Counsel, effective as of October 24, 1995, for a term of service to expire at the end of the 105th Congress.

OHIO LEADING THE WAY IN THE GLOBAL MARKETPLACE

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

Mr. OXLEY. Mr. Speaker, I rise to commend Ohio manufacturers for their continued success in exporting products abroad.

Early this year I took to the floor to note a World Trade magazine report that ranked Ohio No. 1 in the country in the number of businesses that export goods. Now comes a study from the Massachusetts Institute for Social and Economic Research showing that in the first half of 1995 Ohio exports increased 18 percent to $12.1 billion through June.

This dynamic performance was broad based, with sectors as diverse as electronics, agriculture, and industrial equipment logging impressive gains. Indeed, auto supplier Buckeye Rubber Products of Lima, OH, was among those cited for posting healthy increases.

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Mr. Speaker, as a long-time free trader I'm proud to see Ohio leading the way in the global marketplace. It's further proof that protrade policies are benefiting Ohio companies and Ohio workers.

MEDICARE CUTS

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

Mr. RUSH. Mr. Speaker, I consider H.R. 2425 to be the latest and most blatant act of legislative terrorism aimed straight at our Nation's older Americans. Older Americans are being held captive by the Republican Medicare proposal.

Mr. Speaker, when I say captive, I really mean captive. That was proven beyond a shadow of a doubt Wednesday morning when the chairman of the Commerce Committee had 13 senior citizens handcuffed and taken off to jail simply for trying to voice their concern about the Republican draconian cuts.

Mr. Speaker, I will never forget the words of a 90-year-old senior citizen who, while being placed in a police paddy wagon, looked at me and said, ''If I had to do it all over again, I would.''

I ask my Republican colleagues, when will they cease waging generational guerrilla warfare against the elderly and the disabled in this Nation?

I yield back the balance of my time.

INCREASING MEDICARE, BUT AT A SLOWER RATE

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

Mr. WELDON of Florida. Mr. Speaker, President Clinton's Medicare trustees told us Medicare will be bankrupt by the year 2002. As a physician, I am one of a few Members of Congress who has treated Medicare patients. I understand how important this program is for the seniors and the future generations.

Under the Republican plan, Medicare spending increases from $4,800 to $6,700. This is per senior. This is an increase of $1,900 and exceeds the projected inflation rate. For those in the other party and in the media who keep calling this a cut, I should put it another way. If you had a basket with 48 apples in it, how do you get to 67? Do you add apples to the basket or do you take apples out?

Republicans agree that you add 19 apples to the basket in order to reach 67. Matehmatics agrees with us. We are increasing Medicare, but at a less than 10-percent rate increase. This is responsible and reasonable, and we will preserve and protect the Medicare plan. I urge all of my colleagues to support the Republican proposal.

MEDICAID CUTS WILL HURT RURAL AMERICA

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

Mrs. CLAYTON. Mr. Speaker, the Medicare cuts will hurt, but, for rural America, the Medicaid cuts will inflict unbearable pain. The majority proposes to cut Medicaid by $182 billion. What do these cuts mean?

They mean that my State will lose $6.76 billion in Medicaid funding over the next 5 years—882,000 Medicaid recipients will be affected in North Carolina and that number is growing.

Almost 8 out of 10 of the 31,600 North Carolina nursing home residents are covered by Medicaid—who will take care of them at an average cost of $38,000 per year? Thirty-one thousand, three hundred seniors and other disabled people in North Carolina receive home care through Medicaid—who will pay for that?

Nineteen percent, close to half a million of North Carolina's children, rely on Medicaid for their health care needs—these children are the poorest of the poor—who will help them? What will happen to families and spouses when incapacitated seniors go broke?

This plan takes us back to the days when the whole family will be left with nothing when faced with unexpected, costly illness. Hurting our seniors, our indigent, and our disabled is not the way to balance the budget—in the end—it only hurts us all.

Our seniors should grow old with grace, dignity, and security. Next week, let's reject this hastily done, insensitive, unthoughtful majority plan to take from the poor and give to the rich.

THE TOP 10

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

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, here are the top 10 reasons why liberals refuse to help in the effort to save Medicare from bankruptcy.

No. 10, they are not in charge anymore.

No. 9, they are just mad because they will not be getting a pay raise this session.

No. 8, fearmongering. What a blast.

No. 7, they might throw a collective tantrum and explode.

No. 6, they are just stalling until they can get into the witness protection program.

No. 5, responsibility? Why act responsible?

No. 4, that Trojan horse thing. What a breakthrough in modern political communications.

No. 3, forget that going from $4,800 per year to $6,700 per year is really an increase. Forget that. We have some really neat color pictures to show you.

No. 2, with all their scary disguises they did not know Halloween was at the end of the month.

And the No. 1 reason why liberals refuse to help us in our efforts to save Medicare from bankruptcy, well, that would actually mean caring about seniors instead of the next election.

MEN, WOMEN, AND CHILDREN SHOULD MARCH TOGETHER

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

Mrs. SCHROEDER. Mr. Speaker, we are told that a million men will be marching on Monday in this city, and we are told that the march is to strengthen and rebuild families, but where are the families? They are to be at home. This is to be a sex-related march with no women. It is to be an age-related march with no children.

I think, Mr. Speaker, men professing to celebrate family in a family free zone makes no sense. If women went off to spas saying they were rebuilding themselves to celebrate family, they would be attacked. The way we need to celebrate and build America's families is shoulder to shoulder and marching together.

I certainly hope the organizers rethink and make this an inclusive march of men, women, and children, marching together to rebuild the family structure of America that is so desperately in need of rebuilding.

THE SEVENTH ANNUAL CONGRESSIONAL BASKETBALL CLASSIC

(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, so far this year the Democrats and the Republicans have squared off on the House floor, we have squared off in the committees, we have squared off on the baseball diamond, but next Tuesday we will meet each other on the basketball court and finally we will have the answer to whether or not STEVE LARGENT can actually dunk.

Mr. Speaker, next Tuesday is the seventh annual congressional basketball classic. Every 2 years we play this game in support of Gallaudet University, the only university in the world specifically devoted to students who are deaf and have a hearing impairment.

This year's game is being sponsored by the NBA, the Washington Bullets, Abe Pollin and Wes Unseld, the Denver Nuggets, with Walter Davis and COMSAT and many other businesses. The game is going to be played at the Gallaudet fieldhouse which is close to the Capitol, next Tuesday, 7:30. Tickets are available, so if you want to have fun, support a good cause, see some good action, come to the fieldhouse and see

this ball game, where we take on the gentleman from Ohio [Mr. OXLEY] and his mighty group of dunkers over there on the Republican side of the aisle.

CONCERNS ABOUT MEDICARE LOBBYING

(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, two groups came to Washington this week with concerns about the GOP Medicare cuts. One group got a private meeting with Speaker GINGRICH. The other group got arrested.

When the American Medical Association sent its high priced lobbyists up to Capitol Hill, they got a closed-door meeting with Speaker GINGRICH and a billion dollar deal. But, the National Council of Senior Citizens didn't get the same reception. Its members got no meeting with the Speaker and no special deals. Instead, they got arrested.

That's right. Fifteen senior citizens were arrested, handcuffed, and led away in a paddy wagon. What was their crime? Asking questions about the Republican Medicare cuts. Here's a photo of 67-year-old Roberta Saxton being handcuffed for asking a question about her health care plan. Welcome to the Gingrich revolution.

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 ISTOOK PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I want to talk this morning about one of the many, many provisions, hidden, dirty little secrets to use the phrase of the gentleman from Indiana [Mr. MCINTOSH], the gentleman from Oklahoma [Mr. ISTOOK], and the gentleman from Maryland [Mr. EHRLICH], who are proposing this legislation, buried in their proposal designed to shut down a large part of a cherished American tradition of open and free political speech and political debate. That part of their proposal has to do with compliance and enforcement.

Mr. Speaker, one of the revered principles of American law is the presumption of innocence. One of the bizarre aspects of my colleagues' proposal is that it would create a presumption of guilt. How would it do that? I will tell my colleagues how. In order to be able to be in compliance with these draconian provisions restricting the ability of Americans and American organizations to engage in the political life of this country, everyone covered by this proposal would be put to the burden of proving compliance, that is, proving their innocence.

Most times when we might be accused or challenged for an alleged violation of law, civil or criminal, it is the burden on those making that allegation, bringing the charges, to prove a violation, but not here. Here the tables are turned and anyone that is challenged on their compliance with the Istook proposal would have to prove compliance, prove their innocence.

Mr. Speaker, that is bad enough, but I want to tell Members something more, another dirty little secret hidden in this proposal. That is not only would each of us have to prove our innocence, our compliance, that we are not speaking too much in this country, that we are not too fully engaged in the political life of America, but we would have to sustain a burden of proving that by what the lawyers call clear and convincing evidence.

Most times in civil cases, if you have the burden of proof, all that you have to do is show that your side is right by what is called a preponderance of evidence. You might think of that as 51 percent. But not here. Here you would have to demonstrate your compliance by clear and convincing evidence and, again to give it a kind of quantitative feel, most lawyers would say that is 70, 75, 80 percent.

So that is the kind of really bizarre provision buried in this proposal. Again, that would be bad enough if we were dealing with some normal kinds of enforcement issue, have we violated an environmental law or done something else that has to do with the normal course of business in this country. But this is a regulation designed, intended, constructed to curtail political expression.

I know, Mr. Speaker, you are saying this cannot be true. How can anyone in a freedom loving country like ours write a law intended to constrain, to regulate political expression? But that is what this does.

It would limit what we can do to a percentage of our income, almost all Americans are likely to be covered because of the way this thing is written, and, again, we would be put to the task of proving that we have not overdone it, that we have not been hyperactive politically, and if we cannot prove our compliance, not just by 51 percent but by this clear and convincing evidence standard, what happens? Well, we could be subject to treble damages, to have to pay three times the value of what we might have gotten in value from the Federal Government in any number of different ways of having exceeded our political expression limits for the year.

Mr. Speaker, can my colleagues imagine anything more unfair, more un-American that this kind of intrusion on the hallowed, hallowed principles of freedom of expression, freedom of association guaranteed to each of us by the Constitution of the United States?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

[Mr. WISE 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 Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

GET ON WITH AMERICA'S PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say that it has been a very rough week for those of us who believe that this is the people's House, and, indeed, the people should be able to come here and ask questions. We found we have not even been allowed to ask questions or even see the Medicare reform. We are told trust us, you are in the hands of your mother. Oh, really? Well, mother is turning into a terror, it seems, as we see what some of these changes are.

This was a very hard week for me, Mr. Speaker, as I watched these people being handcuffed just for coming to ask questions. I have never seen that happen before. This person does not look like a physical threat to anyone, to me, people in wheelchairs, everyone else, and we are supposed to be grateful because they were not put in jail, they were just taken down and booked and then they let them all go.

Today I see in the paper even more of a shock, and I am sure these people will be even more angry, because today's headlines say ''Gingrich places low priority on Medicare crooks.'' Well, now, that makes us feel real good, does it not? It goes on to say that in the area of self-referrals and kickbacks, they have taken all of that out because the doctors did not want it, and that the Congressional Budget Office, remember the Director of the Congressional Budget Office is appointed by the Speaker in his leadership, so part of their team, the Congressional Budget Office estimates that this is going to cost you $1.1 billion.

My guess, Mr. Speaker, is that is very low. But at a time we are trying to ask people, or they are asking people to put in more and to trust them and that these are not really cuts, and we have heard it all, in the interim their very own office says they are winking at waste, fraud, and abuse. It will come back in even a bigger form. Rather than trying to take out what we know is in there, they are winking and letting it come back in. I find that really very, very surprising. I think most Americans would find that surprising.

I am sure to people at home it sounds like we are a bunch of 5-year-olds in a fight out on a playground, but this is a very important fight. It is a fight about the future of Medicare and Medicaid and what it is going to look like for future generations.

You have a trustees report that says we need to save about $90 to $100 billion. We have put out a plan that would do that, that the trustees say would get us there, and that is very important. You see the other side waiving the trustees report, but then they come up with $270 billion. They do not take it to the trustees to say is this the right way to go, they do not have hearings where the trustees come, and day after day we see a constant trickle of more shocking news about what is in their reform program. I do not know how you can call putting a low priority on Medicare crooks reform. That does not sound like reform at all. That sounds very retro.

Mr. Speaker, I think that is why some of us on this side get very impatient and our voices go up and maybe we get too shrill about this, but these types of issues are very serious. People are entitled to hearings. The people who came here and got arrested, I think that is one of the largest affronts to American citizens I have ever seen, and I wish the leadership would apologize to them and say that they are welcome here and this is the people's House and they can come ask these questions.

We on our side of the aisle, we want to ask some questions, too. Since when is a low priority on Medicare crooks the priority of this House? It certainly is not on this side of the aisle. We do not approve of Medicare crooks, we do not approve of defense fraud, we do not approve of fraud wherever it is. Money is money and people should be treated with dignity. But to see this type of thing constantly trickling out in the press without the openness and without the discussion that we need, I think is very tragic, and that is why people get cynical about government, and that is why I think people are really beginning to wonder and wake up. What is going on on Medicare and Medicaid?

I am also concerned, Mr. Speaker, that we have done away with what we called spousal impoverishment, but you may as well call take-your-house-away bill, because a couple, if one gets sick, is going to have to put all their assets on the line to take care of that one person before they will qualify for Medicaid.

Boy, that is not a family value as far as I am concerned. In 1988, this Congress said no to that type of thing. We said that the family's assets should be split and we should not do that. I hope people find out Medicare fraud is not my priority. Putting families in the poor house is not my priority, and I hope we get on to America's priorities.

PROVIDING CHOICES IN HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, when I was a kid growing up, one of my favorite TV shows was Dragnet. There was a fellow on that show, Officer Friday, and one of his expressions that I liked, if he was getting a lot of extraneous information he would just say just ''The facts, ma'am. We need the facts.''

I would like to get into a little bit of the facts surrounding the so-called arrest of these innocent senior citizens at the Committee on Commerce meeting yesterday. When I heard about this, I was indeed myself concerned, and I asked some of the members of the Committee on Commerce what went on, and the Committee on Commerce hearing was disrupted by a group of seniors who just happened to be a group of seniors affiliated with a group called the National Council of Senior Citizens, which is a very liberal left wing organization which this previous Democratic-led Congress had been giving about $75 million a year to for the express purpose of lobbying the Congress to spend more and more and more money.

Yes, you the taxpayers were having your tax dollars given to an organization that was devoting its efforts full time to lobbying the Government to engage in more deficit spending. This group, this innocent group of seniors, who came in were quietly and politely asked to leave, not once, not twice, not three times, not four times, not five times, but six times they were asked to leave the Committee on Commerce meeting because they were interrupting the hearing.

Finally, it became quite apparent to all those there that the purpose of those people being in that room who were working with this liberal left wing organization, the purpose was to make sure that they got arrested so that they could get some photographs, so that those photographs could be used in newspapers, in magazines, and in this body. This is a staged event.

Mr. Speaker, I have been talking to the senior citizens in my district and they understand that we have a problem. Indeed, the nature of the problem was established credibly by three Democrats working in the White House, Robert Rubin, Robert Reich, and Donna Shalala, who said the fund is projected to be exhausted. What did we do, Mr. Speaker? When we got this information, we sat down with AARP. No, we did not talk to the National Council of Senior Citizens, because their only answer is to raise taxes and increase spending and borrow more money. We talked to responsible groups. We talked to the senior citizens. We talked to the hospital providers and we talked to the physician providers as well.

We have come up with a plan that I think is reasonable and credible. It provides choices for senior citizens. If a senior likes the plan that they are in right now and likes their physician, they can select traditional Medicare and they can stay in it. If they want to opt for some different options, we have a new program called Medicare Plus, which will allow senior citizens to select a variety of different options. Those include if they are getting near retirement and they like the coverage that they have with their current employer, if that employer's insurance provider has a senior option, they can actually select to stay with that company if they want to.

If they want to, they can select a vehicle called a Medical Savings Account, which allows them to really control their dollars and determine exactly how it is going to be spent. There is another option in there for the establishment of provider-sponsored networks. Why is that in there? It is in there for this reason. Managed care has been shown to be, in many ways, a better way to deliver care that is of very, very good quality, and it is also a way to help control escalating and spiraling costs in the managed care environment. There are many communities that do not have managed care vehicles available to the people in those communities.

We have allowed hospitals and physicians to form networks together. They are called provider-sponsored networks, so that they can offer managed care vehicles, managed care systems for the seniors in those communities.

Now, in the process of doing that, we did have to repeal a lot of provisions in previous law that prohibited physicians from getting together. We have to repeal those provisions or they cannot get together.

Mr. Speaker, I think we clearly received a definite message that our plan was credible and it was workable. The Washington Post, of all publications, a publication that has a long tradition, a long record of supporting Democrats and attacking Republicans in this city, came out with an editorial where they said the Democrats campaign, the MediScare campaign, they called it crummy stuff, demagoguery big time, they called it scare talk, expostulation, they said it was irresponsible.

What did the Washington Post, the traditional voice for liberal Democratic policies, say about our plan?

Congressional Republicans have confounded skeptics. It is credible, it is gutsy, and I think it is a good plan. I think it is good for seniors. I think it is good for America, and I think it will help us to balance the needs of seniors with needs to be responsible with our tax dollars and all Americans should support this plan.

□ 1030

SAVING MEDICARE

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I want to respond to my colleague and friend from the other side of the aisle who just spoke. Teresa McKenna in this picture was arrested because she wanted to speak about the injustices and the inequities and the lack of discussion on the issue that is most important to her and the people that she affiliates with in this country, the Medicare issue.

We have had one hearing on a proposal that will affect 40 million people, and she and other of her colleagues went to the Committee on Commerce to ask to be heard. She asked to be heard. They were told they could not be heard. She asked why, and she was told she could not be heard. Then they were arrested and taken down to the jail.

Now, the gentleman who just spoke talked about this was a left-wing type of an organization. Does she look like some left-wing radical that wants to overthrow this Government? All she wants is a fair shake for herself and her seniors.

Do you know why she wants a fair shake? Because in a report that was done very recently by the Department of Labor, we found that 60 percent of senior citizens in this country, 60 percent, have combined retirement incomes, that is the retirements and their Social Security, of $10,000 a year or less. I will repeat that again for you. We have got 60 percent of our seniors living on $10,000 a year or less in this country.

What the National Council of Senior Citizens do is they go out and help these low-income seniors get low-income jobs so they can have some supplement to that $10,000.

What is going on here is my colleagues on the other side of the aisle have a proposal that will take $270 billion out of Medicare in order to pay for a tax cut which comes out to about $245 billion, which predominantly goes to the wealthiest Americans. Fifty percent of that tax cut goes to people who make over $100,000 a year. That is what this fight is about. It is about the Teresa McKenna's and the people struggling to make ends meet, and who will have $1,000 added to their bills each year. They are living on $10,000 and $13,000, and we are giving tax cuts to the wealthiest corporations and wealthiest individuals in our country.

That is why we are so upset and mad. Do we need to fix Medicare and improve it as we go along? Of course we do. We have been doing that for 30 years. But how do you fix it when the Speaker of the House, as this headline in the Washington Times indicates today, says ''Gingrich places low priority on Medicare crooks. Defends cutting antifraud defenses.'' How do you fix it when you have that type of an attitude running this institution?

Now, let me just say with respect to this issue, not one dime, not one dime of their plan goes back into the Medicare trust fund. Not one dime. The last speaker indicated that the Medicare trustees, the three that he mentioned, Secretaries Rubin, Shalala and Reich, indicated that the trust fund was broke. But they also said it was not broke. They said basically all you need is $90 billion. You don't need $270 billion to fix it.

The other thing I wanted to talk about very briefly is what is happening to Medicaid. We are cutting $182 billion out of Medicaid. What they are doing by cutting this money is they are putting in jeopardy literally hundreds of thousands of seniors from getting nursing home care that they so desperately need and impoverishing spouses in this country by changing the rules and regulations. A $182 billion cut in Medicaid, 60 percent of which, or close to that number, goes to long-term care for our seniors in nursing homes.

Medicaid is not just a program for the poor, it is for seniors. Two out of every five children in this country get health care from Medicaid, and they are cutting it by $182 billion. That will mean 15,000 residents in my State of Michigan will not have nursing home care next year if this cut goes through; 175,000 will not have it over a 7-year period. These are draconian cuts.

The New York Times had a headline saying the Republican Gingrich revolution is rolling back the regulations we put on nursing homes. Remember the time when people were being drugged and straitjacketed to their beds? We had serious home abuses. We changed that with humane regulations. Those are all being rolled back now. This proposal that they have to cut Medicaid also repeals the minimum quality standard for nursing homes and other quality care.

So, in conclusion, Mr. Speaker, let me just say that I hope America is paying attention to these two important issues we will be debating in the next week or so.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

[Mr. KIM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

THE TRUTH ON MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes as the designee of the majority leader.

Mr. TAUZIN. Mr. Speaker, I am a member of the Committee on Commerce, and of all the speakers you heard this morning talking about the incident that occurred at the Committee on Commerce on the Medicare markup this week, I am the only person who was actually present for that incident. Let me tell you the truth about that incident; the facts, ma'am, just the facts, if you will.

What occurred was a woman named Teresa McKenna, who is not some poor person worried about her Medicare, she is a paid lobbyist working for the National Council of Senior Citizens, brought a few of her members into the committee room as we had opened up the session to begin marking up the bill, and they began shouting and protesting at that markup hearing.

The committees of the Congress work just like this body does. Members of the public are invited to attend and to sit in the galleries or sit in the committee rooms and to witness the process by which we mark up bills and debate them and process them through this House. Guests are always welcome, as is the press, at our committee markups.

Had Ms. Teresa McKenna brought her members into this room, into this gallery, and conducted themselves the same way, began shouting and interrupting the process, the same thing would have occurred in this House as occurred in that committee room. They were asked three times by the officers in charge at the request of the chairman to either take seats or leave the room so that we could begin our business. Three times they refused. The officers had no choice then but to escort them out of the room.

Immediately after they had been escorted under arrest outside the room, the chairman instructed the police officers involved not to press charges, but to release them to go free. In short, the committee did exactly what this House would do; it exercised its responsibility to enforce order in the process by which we debated the bill.

Teresa McKenna represents an organization headquartered here in Washington. She has been representing it for some many years now. She is a paid lobbyist for that organization. You need to know about the organization. Last year it received $72 million of taxpayer funds to carry out their business. That is a pretty hefty sum. Can you imagine how much health care we could give to seniors in America if we spent that $72 million on some senior health care problems. But, instead, this group got $72 million of taxpayer moneys as grants from the Federal Government to do their work.

Well, what kind of work do they do? They lobby. That is what they do. And, guess what? That $72 million was 96 percent of the income that that organization derived last year. That organization is almost totally taxpayer funded as a lobby group. Ms. Teresa McKenna took some of her members and tried to disrupt the process by which our committee was beginning to debate this extraordinarily important issue for the sake of all Americans, for our mothers and fathers and grandmothers and grandfathers and those to come.

Now, should she and her members have been ejected from the room when they refused to obey? Of course. They would have been ejected from this Chamber the same way. Should they have been put in jail? Of course not. As soon as they were taken out of the room, the charges were dropped and they were dismissed.

I wanted to clear that up first of all. No Speaker of this House, Democrat or Republican, could put up with that kind of disorder in this body. No chairman of the committee, Democrat or Republican, would have put with that kind of disorder in the committee process.

Did our committee have hearings on Medicare? Our committee held 10 hearings on Medicare this year. Ten hearings. That is more than the previous three Congresses combined held on Medicare. We had lots of hearings. We have had meetings all over the country. We have had focus meetings all over the country. Members have had town hall meetings all over the country. Citizens have had many opportunities to discuss with us this critical and important issue of how to save the Medicare program.

So when you hear Members on the other side get up and make believe that some poor senior citizen was arrested because she just wanted to be heard, understand the truth. This was a lobby group, paid for with Federal funds through grants, that was just trying to disrupt the process.

That is what occurred the other day. What the committee did was exactly what the Speaker of this House is obliged to do. The committee gave them three warnings, and then had them removed from the room, and they should have done so. We processed the bill from 5 o'clock that day until 11 o'clock that night. We came back at 10 o'clock the next day, and we finished our work at approximately 12:30 midnight the next day. Our committee worked diligently and hard and debated amendment after amendment after amendment, offered mostly by Members on the other side, before we finally produced the Medicare bill for this House to consider next week.

I will in a minute begin to discuss with you the merits of that Medicare bill. I want to first yield to my friend from Florida.

Mr. WELDON of Florida. I want to thank the gentleman for yielding. I just want to make a point that I think is a very important one. This disruption of a committee hearing, this staged, theatrical disruption, to include photographers being present, and these photographs being brought here into this House, I think clearly demonstrates how desperate our opponents are in this Medicare debate. They have not put forward a credible plan to restore, protect, and preserve Medicare. They have not put forward a credible proposal.

I said earlier when I was speaking that the Washington Post itself has come out and said our plan is credible. They have not been able to do that. They do not have a plan to restore Medicare, and they realize we are about to do something that will probably be very, very good for seniors in restoring the solvency of the Medicare plan, and they are literally desperate to do something to stop us from doing good.

I think it is really a shame that that is what politics in this city has gotten down to, where these kinds of tactics have to be used. I think our plan is a reasonable plan. I think our plan is a well thought out plan. I think we have gotten a lot of input from a variety of different groups in open meetings.

There have not been any secret meetings here at all. Committee on Commerce, as you said, had 10 hearings. I think the Committee on Ways and Means has had 30 meetings. We have had hearings and hearings and hearings and hearings on restoring the solvency to the Medicare plan, and we have put forward a proposal that everybody seems to be saying is reasonable and balanced and restores solvency to the Medicare plan. Not only does it do those things, but it provides our seniors more choice in selecting their health care plans.

I think it is a good plan, and I think it is a sorry day in the annals of political history in this city when the minority party has to resort to these kinds of desperate tactics in this debate.

Let us have an open debate, let us have an open debate and really discuss the various virtues and merits of our Medicare plan, and let us not resort to these kinds of tactics.

Mr. TAUZIN. Well, if the tactics at the committee were bad, the tactics on the floor are worse, to pretend this was some real demonstration by real senior citizens, when this was an organized lobby group planning to disrupt the meeting. To bring pictures on the floor and make it look like some poor senior citizen was not heard is just Hollywood. That is all it is. We ought to put that behind us as quickly as we can and begin to debate the merits of our proposal.

I agree, we have a good plan. We ought to debate it, and I am prepared to begin talking about it.

Mr. KIM. Mr. Speaker, I agree, I think this is all politically motivated. I have a deep concern about all these attacks, that we are taking money from senior citizens and giving that to rich people. My golly, we are talking about a tax credit of $500 per child, and that was given to everybody, not just rich people. Also remember, we just passed an amendment which prohibits any money transfer from Medicare to any other general fund money.

Mr. TAUZIN. If the gentleman will let me emphasize that point, in the Medicare markup we adopted the lockbox amendment, which makes sure any savings the new Medicare reforms produce has to stay for Medicare purposes. It does not go for any other purpose such as a tax cut. It is used within the system to keep the system solvent.

Mr. KIM. I think the public should know that you cannot transfer money from the Medicare trust fund to any other account. The money has to stay within the Medicare trust fund. But all these scare tactics to frighten senior citizens, let me also point out that we should look at President Clinton's plan. He recognized the problem. He is the one that told us Medicare will be bankrupt within 7 years. His proposal is about saving $127 billion over 10 years.

Mr. TAUZIN. If the gentleman will allow me, he proposed saving $127 billion, but on the same baseline that our calculations are made, his number is really $192 billion. The President himself said we need to save at least $192 billion in spending, the bleeding that is occurring in the system, to save it from bankruptcy. Our number is $270 billion. His number is $192 billion. We are not that far apart.

The President understands bankruptcy is about to happen in Medicare. We have to cut the waste, fraud, and abuse, the spending driving it into bankruptcy, as quickly as we can. It does not take Band-Aids, it takes real reform.

Mr. KIM. That is exactly right. So the President recognizes the problem. As a matter of fact, the Board of Trustees are his appointees. They are the ones that released the report that said it is going bankrupt. The President's plan and our plan are not that much different. As you said, if we look at the same baseline, we are talking about the same thing.

Let us look at the Democrat's demagoguery. They have no plan, nothing until about a week ago, and they come up with an idea, a gentler plan, which says they can save $90 billion. Let us take a look at that.

What is going to happen with the $90 billion savings when Medicare is about to go bankrupt? Ninety billion dollars certainly does not go far enough. Their plan simply delays Medicare bankruptcy by an additional 3 years. That is what they are doing.

Worse than that, their plan leaves Medicare about $300 billion in debt, just as the first wave of baby boomers comes along. What is going to happen then? When the baby boomers decide to retire, then we have a $300 billion debt in the Medicare trust fund. Undoubtedly that is going to bankrupt it again.

This is just another political gesture. I am concerned about this.

Mr. TAUZIN. The gentleman makes a great point that we need to emphasize. The Democratic Party finally came with some alternative. They finally said this week, here is what we would do. What they would do would be to cut the spending, the bleeding in the program, by only $90 billion. What that does is that just delays the bankruptcy. It is like putting a Band-Aid on a gaping wound and say all you have to do is pump.

Mr. MORAN. Blood in the patient. The patient is going to die unless you close up the wound. Ninety billion dollars will only get you past the next election. It will not save Medicare from bankruptcy and protect it for the next generation. Our goal is to protect Medicare, not pass the next election, but for the next generation.

Mr. KIM. That is right. Ninety billion dollars is just a political game without any details. You are trying to use this figure and trying to frighten senior citizens.

I am concerned with what is happening right now, all the verbal assault and demagoguery.

Mr. TAUZIN. Mr. Speaker, I want to start this discussion by laying something on the table that I think ought to be a predicate to all the discussions we have, a precedent. The first thing I think we ought to put on the table for everyone to consider is that no Democrat, no Republican, has a greater claim to loving their parents and their grandparents than anyone else in this body. No one can credibly make an argument that because they are a member of one party or the other, they love their parents or grandparents more than a member of the other party. This is not about parties.

We should love our parents and grandparents enough to make sure that the Medicare system is not only solvent for the next 7 years but is solvent for as long as we can possibly see into the future. It is that important.

My mother is a cancer survivor twice, survived breast cancer surgery in 1961, survived lung cancer surgery in 1980. She is a miracle, a product of the miracles of medicine. I consider her my miracle mom. She is still around. She is celebrating her birthday this week at the Senior Olympics in Baton Rouge, in her two favorite categories, shot put and javelin, believe it or not. She is doing great. She is one of the incredible success stories of our Medicare program, of our health care system.

No one in this body can dare lay claim to the notion that they love their parents or grandparents any more than any one of us in this body, regardless of party. That ought to be the first principle.

The second principle ought to be that all of us recognize what the President said, that he and his trustees have said, that if we do not do something dramatic and immediate, the Medicare system will go bankrupt in 7 years.

Now, I expect my mother to be around longer than 7 years. I do not want that bankruptcy to occur for her, not for your mother, not for anybody's mother or father or grandfather.

The second principle that we all ought to agree on, regardless of our disputes, is that we cannot let that happen. We cannot let this system that has cared for my mother and yours go into bankruptcy in 7 years.

The third principle I want to put on the table as we begin this discussion is that the President himself has recognized the need for an immediate and dramatic action to stem the bleeding of money from this system, the tripling of inflationary costs in health care, to Medicare, the waste, the fraud, the abuse in that system—they estimate 10 percent of the dollars we spend in Medicare is nothing but waste and fraud and abuse.

The President has recognized we have to put an end to that. He has recommended $192 billion of reforms in that area. We have recommended $270 billion. The President said in 1993 that for the system to continue at three times the rate of inflation is intolerable. He said in 1993, the President, Bill Clinton said, ''I will recommend reducing the growth of spending in Medicare dramatically and in Medicaid. This will not be a cut. Don't let people tell you it is a cut. We simply have to reduce this incredible rate of spending to save the system.'' That was the President's words in 1993.

We have some agreement there. We ought to have agreement in this body on those same three principles. One, we all equally love our parents and grandparents; two, we all ought to be committed to saving Medicare from bankruptcy; and, three, we can agree, from this body to the Senate to the White House, on a plan to rescue it.

Mr. KIM. If the gentleman will yield further, I would just like to point out I hope people in California are watching this debate, because I read the report carefully. It says that part A of the trust fund, the hospital insurance trust fund, which pays the hospital costs, will be bankrupt within 7 years, unless we do something right now.

That is financed by payroll taxes, the FICA, which the beneficiary pays a half and the employer contributes the other half. If that goes into bankruptcy, we have two choices. One is raise taxes, which is not fair to younger people. Why should they pay a higher rate to subsidize beneficiaries, the retirees?

The second is you have to control the costs. That is exactly what we are trying to do. We have shown again and again that last year alone the Medicare trust fund, which is mismanaged in my opinion, the cost has gone up 10.5 percent. The private plan in California, the costs have actually gone down 1.5 percent.

If you give choices to join a private plan, just a choice, an option, the more joining the private plan, we can save easily 10 percent by avoiding this mismanagement.

Then part B, which is, again, paying for the doctor's bill, which is paid by the beneficiaries, $41.22 a month, that is hardly enough. So what we are doing is, other taxpayers have been subsidizing two-thirds of this cost. The beneficiary only pays one-third. It used to be half and half. If we do nothing, what is going to happen at the end of 7 years, it is going to be 90 percent subsidized by the other taxpayers, only 10 percent paid by the beneficiary. That is not fair.

What we are trying to do is maintain the same situation, one-third/two-third relationship, by doing it we have to ask the retiree to contribute a little more to maintain the level. We are not cutting anything. We are trying to maintain the same level.

I think we should stop bickering and sending all this disinformation and frightening tactics, so we can work together and come up with a comprehensive plan. We are in a serious problem in Medicare.

Mr. TAUZIN. I thank the gentleman for his statements. I guess maybe the gentleman has put his finger on it. The last thing we ought to do is try to scare seniors today. They have enough to worry about.

We all ought to be trying to calm these fears. We ought to be talking about our debate, of course, on how to resolve it; it ought to be a good debate. But we ought to all talk about those three principles I talk about. We love you enough to try to keep Medicare solvent, and we will do whatever it takes in working with the White House to come up with an eventual solution that saves it from bankruptcy. That ought to be the theme.

These fear tactics ought to be put aside. We ought to work for the good of this country instead of for the good of somebody's politics today.

I yield to my doctor friend from Florida.

Mr. WELDON of Florida. I just want to amplify on a point that the gentleman from California [Mr. KIM] just made, which I think is an extremely important point.

In developing our plan, we met with a variety of different groups, both consumer groups and senior groups, as well as provider groups. And we, frankly, were shocked to discover that in many of the private groups that do health care, they are actually seeing their cots go down.

So here we have on this one side this government-run program with all its bureaucracy, with all its fraud and waste, and it is increasing at 10.5 percent. Then you go to these civilian-run, private programs, where they are actually reducing the premium. It is not growing at 3 percent, it is not growing at 5 percent, it is not growing at 6 percent. They are actually lowering the premiums to the employers, and that helps those employers be more competitive. It helps them to be more competitive on the international market, where so much of the competition is going on right now.

So what we did is we said, how are you doing that? How have you been able not only to lower the rate of increase of health care costs, but to actually see some real dollar reductions in your costs in health care? And we have taken some of those principles that they have adopted, many of which—actually what they accomplish is they root out fraud and abuse. And we have adopted some of those into our Medicare Plus program.

Now, our friends on the other side of the aisle would like to say that we do not want that, we do not want that. We cannot have that. We want to maintain the status quo. But the reality is the working people who work for these companies who have adopted many of these managed care type plans have to live under those managed care plans.

The ultimate irony of all this is, if you do pause and you ask those working people, the people who are paying the bills for the Medicare plan through their payroll taxes, how do they like them, what they think of those plans, they say they are great. They love them. They think they are wonderful, and they indeed, many of them, are happy that it saves money for their employers so their employers can be more successful. And they indeed are very, very happy that it weeds out fraud and abuse.

Mr. Speaker, that was such a crucial point that the gentleman from California [Mr. KIM] brought up. All we are doing is saying, gosh, how did you guys out there in the free market manage to do this? Let us see if we can put a little of your free market common sense into our Government program. That is what we have done with our Medicare Plan.

To accuse us of some of the things that are coming from the left on this issue, I think is just dead wrong. It is a good plan.

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Mr. TAUZIN. It is important I think for us to answer some of those accusations right up front. First, are we forcing anybody out of Medicare? The answer is no. Our plan says if you want to stay under the traditional Medicare fee-for-service, you choose your own doctor, choose your own hospital, you continue as my mother has under the Medicare program, you can continue under the current Medicare program as long as you want to.

I will say it again. You can stay in Medicare as long as you want to. Will there be increases in the benefits over the next 7 years in our plan if you stay in Medicare? The answer is yes. We will increase the benefits per beneficiary from about $4,800 a person on average to $6,700 a person on average over the next 7 years.

So if you are like my mother, you like Medicare and want to stay there, you can and your benefits increase over the next 7 years by almost $2,000. So do not believe this awful fear tactic that we are somehow cutting the benefits to Medicare beneficiaries. Neither are we forcing anybody out of the Medicare system as they knew it.

I will tell you the other good news. What about the case if a Medicare beneficiary decides to choose one of these new plans and then does not like it? Guess what, under our plan if you choose it and do not like it, you can go right back into Medicare. In the first 2 years you can do that on a 60, 90-day turnover. You can try a plan and go right back to Medicare. After that you sign up for 1 year at a time.

You will get to do what Members of Congress get to do; you get to choose from among plans. Do you remember when Hillary Clinton was presenting her national health care plan and they argued on television that we ought to give Americans the same option people in Congress have to choose different plans? Well, guess what? Under our Medicare proposal, seniors can stay in Medicare like it is, if they like it, or they can choose another plan, exactly what Hillary was recommending for every American.

Third, if you do not like the plan you choose, under our plan you can move back into Medicare any time you want to during the first 2 years and every year thereafter at election date when it is time for you to choose.

Guess what else? Seniors are not going to have to use vouchers and go buy these plans. The truth is seniors are going to have a booklet sent out to them in plain English, same way we get one every year, that explains the options to you, that tells you what you can choose and what you can try, and then if you do not like that you can switch back to the Medicare the next year or during that first 2-year period.

That is a pretty good deal. When I went to my mother last weekend and she asked me what we are doing in this thing and I explained it to her, I said Mom would you like to have some option. She said I like Medicare just like it is. I said you can stay there, but would you not like to know you have the same options that we have in the private sector, that Members of Congress have under our Blue Cross plan? Would you not like to know you can move from one plan to another if there is a plan better than the one you are in and that you can go back to Medicare if you do not like the one you choose? She said, well, that makes a lot of sense. I said, yes, it really does.

If Americans hear what is really in the plan instead of what they are being told about it by those who simply wanted to create fear out there, if they hear what is really in the plan, most senior citizens say, wow, somebody is finally giving us a choice, somebody is finally giving us a chance to choose what others in our society can choose, better private plans if they are better for us, and if they are not we can stay in basic Medicare as we know it.

Mr. KIM. Mr. Speaker, I want to say that was very well said. I want to add that under the current plan, once you hit 65, you have to give up whatever plan you have. You must join this Government-mandated Medicare plan.

Mr. TAUZIN. That is correct.

Mr. KIM. You have no choice. That is the only plan available to you, which is Government run and run by bureaucrats. You have to follow their regulations, which is, in my opinion, socialized medicine. Just one plan, period.

All we are trying to do is give those beneficiaries options to join other plans. Why? By joining other plans, you can save more money. This Medicare plan has so much abuse, so much waste and fraud, people would not believe. Even the report so stated that there is more than 50 percent, which is easy to save if we eliminate the waste and fraud.

It is unbelievable. It is out of control. That is why it has gone up 10½ percent, while private plans are under control. Their costs have actually gone down 1½ percent. It is ridiculous.

As long as a third party pays, as long as the Government pays it, who cares? That is the problem we have. So we are trying to eliminate that problem by simply offering all the beneficiaries choices to join private plans. We expect that at least 1 out of 4 will eventually join a private plan.

Mr. TAUZIN. One out of four. Mr. KIM, you have put your finger on it again. Every time I go to a townhall meeting, I am always asked by someone in the audience the same question. Why do not you Members of Congress spend our money as carefully as you would spend your own? Why do you allow bureaucrats to waste 10 percent of the money that is needed for health care for the senior citizens of America? How do you put up with that? Why do you let it happen? Why do you not be more careful with our taxpayer dollars, as careful as you would be with your own dollars?

The truth is it is harder when you are spending someone else's money to be as careful as when you are spending your own. You have to work a little harder. So guess what? In this bill we are putting in more antifraud, waste and abuse procedures; we are putting in more ability of Americans to help us root out the waste, fraud and abuse in this system than this system has ever seen.

I want to tell people about what is in this bill that you will not hear from the other side. First, everybody knows about the IRS system. If there is somebody cheating on the IRS and you report them, you are entitled to a bonus. Do you know that? If someone is not paying their fair share so that the rest of us have to keep seeing increases in our taxes, any citizen can report an IRS violation and there is a bounty system under the IRS to reward those who report fraud and abuse in the IRS system.

Well, guess what? The new bill will install the similar type system for every senior citizen who catches a bill coming to them, who catches a waste, fraud and abuse situation and reports it to HCFA. Let me be specific.

How many seniors have told us that when we get that bill back, the Medicare bill back that is being submitted to the Government, and say, wait a minute, I do not remember having that service, I do not remember that test, I do not remember this being done? How many have told us that? If a senior suspects they are being charged for something that did not happen and the taxpayers are having to foot the bill, there is no real incentive now to report it because somebody else paid it.

But now the seniors will have the same incentive that every taxpayer has to root out fraud and abuse and report it. There will be a reward for seniors who help us find fraud and abuse.

Second, the bill doubles the penalties on people who defraud this system. Let me say it again. We double the penalties on people who defraud this system. We make it mandatory that any provider under this system that defrauds the seniors of this country and the taxpayers of this country is forbidden to provide services under the Medicare system for a minimum of 3 years. Mandatory. That is not in current law. We provide a doubling of the penalties and a mandatory 3 years you are out of the system if you dare defraud seniors any more.

Fourth, we put together a coordinated antifraud and abuse system like we never had before. We give to the Secretary the power which the Justice Department now has to work with people who will turn states evidence and help us root out other fraud, waste and abuse cases. We cannot afford the billions of dollars that are going into this rat hole of waste, fraud and abuse any longer.

So when you hear from the other side that this bill is somehow kind of lax on waste, fraud and abuse, just do not believe them. You know what CBO said. CBO scores our work. CBO does the objective analysis that is done on every bill that comes before this House. It tells us what a bill does financially. CBO said we will pick up at least $2 billion in extra collections from waste, fraud and abuse by some of the measures we put in. There is a potential to pick up a lot more. We think there could be as much as $50, $100 billion eventually picked up if we begin to root out the 10 percent of waste, fraud and abuse in this system.

So we are going after it, Mr. KIM, finally. We are going after it not just for the taxpayers but for the seniors who want their program to be here after 7 years, who do not want it bankrupt and who want the dollars we spend, the precious dollars we spend to go to their health care and not to this awful system of waste, fraud, and abuse.

Mr. WELDON of Florida. Mr. Speaker, I want to just amplify on this fraud and abuse issue, because it is a very, very important area. I had a series of townhall meetings with senior citizens in my district over the summer, and one of the messages I heard over and over and over again is we have to do something about this waste and abuse in the system.

I had a lady come to me, she had a bill that was for her week in the hospital and it showed her staying 2 weeks in the hospital. I had another gentlewoman come to me with a bill that showed they billed for her being in the hospital and her husband being in the hospital at the same exact time when he was not in the hospital at all. He was at home and coming in to visit her every day.

So we have some real problems in the system with that. One of the aspects of the Medicare Plus plan is these provider-sponsored networks. I want to underscore a very, very important point in that feature of Medicare Plus. If there is any excessive testing being done, if there is any excessive procedures being done, the person who picks up the tab for those is not the taxpayer; it is not the Federal Government, and it is not the senior citizen, it is the provider in that network who did that unnecessary test and who did those unnecessary procedures. So that will be a tremendous incentive in that part of our reform package, in Medicare Plus, that will make sure that we really do root out fraud and abuse.

I think that feature, coupled with the things you were mentioning, increased penalties, a hot line where they can report fraud, when you start looking at all those things coming into effect, we will have a lot of savings in rooting out a lot of this fraud and abuse.

Mr. TAUZIN. I thank the gentleman, and let me emphasize again what the gentleman added. The bill contains a hot line system for the first time. So citizens who find waste, fraud and abuse on their forms, they do not have to report it to somebody locally who may lose it; you can call directly to a hotline in D.C.

We will also have a system whereby the Secretary puts out fraud abuse alerts, so if there is something going on they pick up in the marketplace out there, where fraudulent practice is occurring, they can notify seniors to watch out for this, there is something going on out there, help us root it out.

In other words, we are beginning to build in this bill a partnership between the seniors who receive the services and who very often see the fraud and abuse firsthand and those who run the program and the taxpayers who are footing the bill. That kind of partnership means that we may end up with a much better, more solvent system. That is worth fighting for.

Mr. KIM. The gentleman is right. As long as we have a third-party paying system, without somebody watching so to speak, we will continue to have this kind of abuse and fraud. Right now, the Government pays it without truly looking at it closely. That is what has happened.

That is why I like the concept of the Republican plan to set up a Medisave concept. So you have a choice. Any savings you got by transferring your plan to a private plan without costing you a penny, whatever savings you can generate out of that, you can put the money into a tax free Medisave account and after that you can do whatever you want to do. It is your money to spend, which gives senior citizens incentives in trying to look at the cost.

Right now nobody cares. Nobody asks how much it costs me having this operation. Nobody even shops around. This will give us some incentive to shop around so that I can get a better treatment and cheaper, so to speak. I think it is an incentive rather than some kind of additional regulation. I like the concept, and I think it is an excellent concept.

Second, I want to point out again, going back to part B, which is again, as I mentioned earlier, that right now we are one-third paid by the beneficiary, two-thirds subsidized by the taxpayer, because $46 a month certainly is not enough and, therefore, all the other taxpayers subsidize it. Now, if we do not do anything, it will be totally out of control.

So what we are trying to do is maintain the one-third, two-third relationship. We are trying to have it so that what we call the rich, wealthy senior citizens will not be subsidized, which is fair. We are talking about $100,000 a year or more for single, $150,000 for the couple immediately to stop the subsidy. Anybody making $75,000 per single and $125,000 per couple, we will gradually phase out the subsidy. Is it not fair to do it, so we can maintain this one-third, two-thirds relationship?

I do not think it is right that other taxpayers subsidize 90 percent of it. I think right now all the media polls are saying that senior citizens are upset, that they are against us. I think when they find out the truth, I think it will be turned around.

I do not understand why we have all the blame. Mr. Clinton's plan is no different than ours. How does he get away from all the criticism and we get all the blame?

Mr. TAUZIN. I thank the gentleman, and you made two excellent points again. One is that among the various plans that we give the seniors an option to choose are the Medisave accounts. Medisave accounts are being used now. NBC showed a film the other night on New Jersey's plans in many corporate businesses where, instead of belonging to the Medicare system as you know it, you can choose instead to have the money deposited in a Medisave account. A catastrophic policy is purchased, the balance is kept in the account. If you do not use it, the money then becomes yours at the end of the year. If you use it, your high option coverage then kicks in to protect you.

Those Medisave accounts do, in fact, allow people in the marketplace another option and, in fact, ought to be made available to seniors who want to perhaps use them, too. It does ensure

accountability. When it is your money, you will spend it a lot more carefully.

So it is one of the options that seniors will have. You do not have to choose it, but it is one of the options and is working quite well in many business settings in America for employees registered under health care programs with their companies.

The gentleman also makes a second point. Under part B Medicare, that is the voluntary part; the part A is the part we all have to belong to today when we reach 65. That is the mandatory hospital coverage. But part B coverage is the voluntary part which most people choose when they have the option.

That part B coverage covers your doctor bills primarily. That part B coverage is paid 68½ percent by the taxpayers of America, the young workers of America, and it is paid one-third, 31½ percent in fact, by the seniors who choose to participate in it. About one-third, two-thirds, you were right.

What we do in our plan is to maintain that ratio through the 7-year period. The recipients of the program will still pay 31½ percent, the taxpayers will still foot the bill for 68½ percent, but we do one thing that cries out for reform.

Here is the question. How can you ask a young couple earning $20,000 a year to continue to subsidize part B premiums for an older couple that is making $100,000 or $150,000 a year?

You can understand why all of us working in the work force should help our seniors who are similarly situated in terms of income. But how do you explain to a working couple struggling to buy their own health care at $20,000 a year salary that they also have to subsidize the part B voluntary premiums of someone earning $100,000 to $150,000 a year? It is pretty hard to explain.

The odd thing about it is, believe it or not, we are getting criticized by the other side, who should be against taxpayer subsidies for wealthy people. We are getting criticized for trying to make this change. What we are saying is that when you are in that income category, $100,000 to $150,000 a couple, that you should not have to depend upon those making $20,000 a year to pay your part B premium. That ought to be your responsibility if you are that well off. You ought not be counting on poor working Americans struggling to feed their families and pay their own health care.

So our plan changes that and phases out that subsidy for the well-to-do in America who do not need a subsidy from those who are working in the poor and middle class families struggling to pay their own health care.

Mr. WELDON of Florida. Mr. Speaker, I was a practicing physician before I came to the U.S. Congress, and, actually, the truth is a lot of those working families on limited incomes, families where maybe the husband has a $15,000, $20,000 a year job, and the wife may have a part-time job while the kids are in school making $6,000 or $7,000 a year, many of those families have no health insurance, they have zero health insurance. I have seen that in my practice, where they do not have the money to pay me, and you have to set up a schedule of payments or you have to just write that off, because you know they cannot afford it. So you end up seeing them for free.

We have been taxing those people to subsidize the part B premium for many very, very wealthy senior citizens. This is just another example, I believe, of how our plan is a well thought out plan, a balanced plan. What we are asking is those wealthy seniors, who have the money to pay for their part B premium, that they pick it up themselves. So we have some provisions in there that will make sure that those affluent wealthy senior citizens are paying, indeed, their fair share of what their health care costs are and that we are not excessively burdening working families, many of whom have no health insurance.

I think that is a very, very good balanced feature of our Medicare reform proposal and our Medicare Plus plan.

Mr. TAUZIN. Again, you have put it so well. Here we are talking about a family that cannot even afford to buy their own health care they are at such a low income, struggling. Yet our law now requires them to subsidize, through their taxes, the health care premiums of the wealthy in America. That does not make sense when you talk about part B voluntary programs.

You can make an argument, as we have all made the argument, that when it comes to part A, all of us who work in America owe our part A contributions to make sure that part A is solvent. That is maintained in this plan. But to say that working Americans, who cannot afford medical care insurance for their own doctors for their children, and who do not even have coverage for their family, who have to go, if you will, to Hill Burton coverage, or the good graces and charity of their physician for health care, to say to them we are going to ask you to pick up the part B premium for people earning $150,000 or more for next year is a little unfair.

If ever there was an unfairness in a system, I think we have found it. We correct that unfairness in this bill. One of many features of this bill that I think Americans should look at instead of reading the fear tactics put out by the other side.

Mr. KIM. Mr. Speaker, I read a month ago a report that simply says that we live longer, which is good news, and that each beneficiary actually spends $170,000 more than he or she has contributed in a lifetime. Of course, some people live longer and some people die earlier, but, on average, each senior citizen actually spends $170,000 more than they have contributed in their lifetime. We have to make this up somehow.

Part A we know is a payroll tax, 2.9 percent, half and half, employee and employer. Is it fair to raise that? No, I do not think it is right to raise it because why should they pay it? So we have tried to maintain the same tax rate. Part B, one-third, two-third relationship, that must be maintained. That is not fair asking young people to pay more.

So we have tried to maintain the same rate. What else can we do, except avoiding all the waste and fraud? We have all the innovative ideas of giving choices to private plans.

What really bothers me is our colleagues, the Democrats, come up with this silly $80 billion savings. Come on, that is certainly not enough. They know it. It is clearly stated in the report. That is not going to do anything. It is just a political motivator. Who are we trying to kid?

As I said earlier, at the end of 7th year, when the baby boomers decide to retire, how will we do it? By then we will be $300 billion in debt using the 80 plan they are suggesting, which they never had a plan until a couple of weeks ago. Last minute, without any details. It is just a joke. It is another politically motivated tactic that they are trying to use to say we have a gentler plan, that the Republicans are cutting too deep, too fast.

I have just had it with this rhetoric and painting us like we are mean-spirited people. Come on, we care about people, just as they do. We should stop the bickering, and they should join us. If they have a problem, let us work this out together and come up with a comprehensive plan so they can save Medicare from bankruptcy.

Mr. TAUZIN. I thank the gentleman. I think I know where the problem is. The problem is that, No. 1, the Democrats who do not like our plan would prefer to call us mean spirited and create all these fear tactics, and Republicans who are upset with the Democrats for not coming up with a plan would like to believe that the Democrats do not want to save Medicare.

I do not think either of those arguments are true. I really do not. I think Medicare is sacred to all of us here. I think the other side should be given credit that they do not want Medicare to go bankrupt, but their solution will not sell anymore. Their solution is either raise taxes some more or borrow some more money. Do not try to control the cost or the waste, fraud, and abuse, just raise taxes some more or borrow some more money.

I want to end, before I yield back to my friend from California on that note. I was raised to believe that it was the job of parents in America to try to leave some patrimony to their children, to try to leave them a base, a foundation upon which to build their future. I was raised to believe that. I think most of us in this country were raised to believe that.

But the most awful crime occurring in our country today, if all the other

crimes were lumped together, they are misdemeanors compared to this great felony. The greatest felony in America today is the fact we in America today, our generation, is now not simply living on our income, we are now living on the income of our children and our children's children yet to be born. We are living at such a deficit rate that our grandchildren and children will have to endure an 80 percent real tax rate on their earnings to pay for our debt.

We are not leaving our kids any inheritance anymore; we are leaving them mortgages and we should be ashamed. If there is one felony we ought to end in this Congress, in this country, it is the notion that we can live off our children's income forever, that it does not come due one day, that somebody does not have to pay that bill one day.

What we are trying to do this year is to say beginning through this year into the next 7 years we will put Medicare in solvency again, we will put the budget in balance, we will quit living off our children's income and we will do it in a way that protects our seniors and gives respect and due credit to the workers of America who are trying to fund this system and make it work.

What a great challenge. What a great challenge. Is it worth some political heat? You bet you. You bet you. Is it worth getting a little political stain on you because you get hit and accused and abused through the process? Of course. Do I care whether or not anybody's politics is helped or hurt by this? Not a bit. What I care about and I hope you care about is at the end of this process we cure Medicare for America, we make it solvent again, we balance this budget in 7 years and we end this awful felony of living off our children and our grandchildren's income.

Shame on us for letting that continue for one more year. Blessings upon us if we can do it in this 7-year period. It will take at least that long, but we ought to be about that business today. We ought to be about it as Americans, not as Democrats or Republicans. We should be about it as parents who love our kids enough to leave them something better than a great debt they cannot pay.

Mr. WELDON of Florida. That will be hard to follow on. As always, he spoke very, very well on this issue.

I want to close by pointing out that the Washington Post itself, a publication that has a long-standing reputation of opposing Republican initiatives and supporting Democratic initiatives, and I raise that not to criticize the Washington Post but just to emphasize that this is basically a statement from a group who has been traditionally our critics, they say that the Republican's Medicare plan has confounded the skeptics, it is credible, it is gutsy, and it addresses a genuine problem that is only going to get worse.

This is what they had to say about our opponents. They called their proposal crummy stuff. They called it demagoguery big time, scare talk, expostulation, and they called it irresponsible.

What you were just talking about, you were talking about being responsible when you talked about leaving our children not a debt but leaving them a good posterity at this, that is called being responsible. That is called being a responsible parent when you do that. That is what this is about. It is a responsible proposal that we are putting forward and what our opponents are doing is irresponsible, and I thoroughly support the Republican Medicare reform plan, the Medicare Plus plan. I think it is a good plan. It will preserve and protect Medicare for our seniors. I think it is good for seniors, it is good for working people who are getting near retirement age, and it is good for those young people who will be saddled with all those taxes if we do not straighten the problems out.

I thank this gentleman from Louisiana for planning this 1-hour special session to talk about this. I think this has been very, very good. The gentleman from California [Mr. KIM] has made some very, very good comments. I think this is a very, very complicated issue, but we covered a lot of the high points on what our plan offers.

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Mr. KIM. Mr. Speaker, I was coming down to the office when I heard this radio talk show, and it concerned me because they were interviewing an opponent that said that now Republicans are trying to tax the students. I was absolutely shocked.

As a matter of fact, we added more money for Pell grants. We are not cutting any student programs. All we are doing is we are asking students when they borrow the money, they should pay back all the interest. Right now they do not have to pay anything until they graudate or 6 months later.

Is it fair for the other young people who are not fortunate enough to go to college to subsidize a medical student with free interest? Of course, not. So we are asking them to pay back interest after they graduate, which is about 60 cents a day on average. This kind of demagoguery, this kind of scare tactics, frightening now senior citizens, now young students, I do not appreciate this.

This is my second term, but this is politics and I am very disappointed. We should send a clear, true message to the American people, not twisted, not demagoguery, not scare tactics.

A lot of senior citizens from my district are frightened. I have to go explain to them the factual information. I was an engineer all my life. I do not know any other way except presenting facts. Now they are satisfied. But it is really not necessary doing all this. They should tell the truth, exactly what it is.

I thank again the gentleman from Louisiana [Mr. TAUZIN] who has done an outstanding job hosting today's debate.

Mr. TAUZIN. I thank my friends from California and Florida for what I think is a very useful hour.

Let me say it again: The Washington Post, what most people consider a very liberal editorial page, said it very clearly. But I want to caution, if you want to get educated on the Medicare proposal before the Congress, do not count on the newspapers or anybody else to educate yourself. Try to educate yourselves and be in touch with us. Write to us, call us, ask for information, as you always do, come to town hall meetings. We will continue to share that information here on the floor as freely as we can.

Let me say again, our plan mandates no one to leave Medicare. They can stay in it if they like, and it will grow from $4,800 per recipient to $6,700 over 7 years. It is good reform that saves Medicare for a whole generation, not just for the next election, and that is important.

It is a plan I think we ought to be debating, as the gentleman from California says, in a way that does not pit the White House against the Congress, or Democrats against Republicans, in this awful kind of political warfare. It is one where we all ought to recognize we all love our parents and grandparents, we love them enough to behave ourselves around here, instead of acting like children, and to come to some mature decisions about how to save this program and make it endure for the good of the seniors of America, while respecting the legitimate interests of taxpayers that want to make sure the wasteful spending in this system is curtailed as rapidly as possible.

This is a great challenge for the country this year. I hope we are up to it. I hope seniors are calm and cool and deliberative as they look at these programs. If there is something wrong in what we are proposing, I hope they suggest changes that make sense that we can incorporate into it.

The last thing we need is demonstrations and disruptions like we saw in the Committee on Commerce organized by lobbyists paid exclusively by Federal funds. The last thing we need are scare tactics. What we need is honest, truthful debate of the facts, and then coming to terms as Americans, not as party members, but as Americans, to save this incredibly important system for those we love so dearly, and who created the path upon which all of us have walked.

I want to remind you of something. All of us owe so much to the seniors who came before us. All of us owe so much. They did not leave us with a big debt, they gave us a lot. We ought to not leave our children with a great debt, and we ought to honor and love our mothers and fathers enough to take care of them in their senior years

with a program that does not go bankrupt because we did not have the political courage to debate it as mature adults.

I again want to thank the gentleman from California [Mr. KIM] and the gentleman from Florida [Mr. WELDON].

AMERICA IS NOT A SPECTATOR DEMOCRACY

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would like to begin where the last speaker left off.

I think that it is important to note that America is not a spectator democracy. Americans should participate. Americans should be engaged in the process of deciding our own faith.

We have a Constitution which allows us to do that. We are not helpless victims. We should not sit by. We should participate. We need more demonstrations. We need more writing of letters to Congressmen. We need more petitions. We need more marches. Whatever is possible to participate in, we should do that. Action is needed now.

I think it is important also to note that the first participation of Americans should be in terms of the dialog. Let us engage in the dialog. Let us listen to what we hear. Let us analyze it. One of the great things about seniors, and I like to be around seniors because senior citizens have lived for some time and experienced a great deal. I am not too far away from that myself now. When I was very young, I always liked to be around senior citizens. They know so much more than the rest of us. They are always so much more interesting to talk to and listen to.

You cannot put much over on senior citizens. I do not think the salesmen we have heard this morning will be able to put much over on senior citizens. I do not think the sales package of the Republican majority will put that much over on senior citizens. Senior citizens will listen and ask themselves the question, how is it that the Republican majority in their plan makes such a great deal about eliminating fraud, when at the same time, they have recently made a deal with the doctors and the medical establishment, the perpetrators of the fraud, to endorse their plan? Why are the doctors so happy? What is contained in the deal that was made between the AMA and the medical establishment and the Republican majority which makes them so happy?

Surely they are not agreeing to a program which is going to make them more accountable. Who is responsible for the excessive costs? The medical establishment. Who is responsible for the fraud and the waste? The medical establishment.

How can you say that to a senior citizen who has seen a number of things happen in their lives? They have seen the hustlers and seen the swindlers come and go. No senior citizen would go out to buy a used car without thoroughly checking it out and having somebody with them who knows a lot about cars. No senior citizen would buy a new car without checking it out. There are a number of things you do, because you are old enough to know better.

So check out the proposition that fraud and waste will be eliminated in the Republican majority plan, and the Republican majority made a deal with the doctors. How can those two things be the same? The doctors, the medical establishment, are the people responsible for the fraud and the waste, certainly the fraud.

Last year when the Clinton administration's plan was on the table, I proposed a number of times that we have a one-tenth of 1 percent set aside of all the money appropriated to establish consumer advisory committees, patient advisory committees. The people who are in the plan should at least have one-tenth of 1 percent of the total amount of money so they can maintain an organized advisory committee made up of the people receiving the service.

Nobody would support that plan. Nobody would support that plan. If you do not have that kind of organized plan built in to defend yourself against fraud, I do not suggest to any senior citizen, and I do not think any senior citizen would be foolish enough to turn their doctor in.

I heard the proposition that you get a reward, you get a bonus for turning your doctor in for fraud. If you turn your doctor in, be sure you get another doctor. I think I can tell senior citizens, if you turn your doctor in, do not go back to him. If you turn two or three doctors in in the same city, they are going to blacklist you. I do not advise you to follow that route, period. And I do not think most seniors would be dumb enough to get involved in a situation where the people responsible for their lives, they are reporting fraud on.

That is not enough. If you want to deal with fraud in health care, you need a better apparatus to do it. Do not tell senior citizens to buy that.

Do not make comparisons with the Clinton plan. Let us engage. Let us remember, what did the Clinton plan try to do last year? What was the administration's primary aim? The primary aim was to get universal health care coverage, not just to deal with Medicare. Medicare, Medicaid, it was understood that the programs had to be refined, that there was some waste, that it is possible to make it more efficient and more effective. And in order to get the money needed to extend the coverage and to have more people covered, we would do that.

The noble purpose of the Clinton administration plan is not one of the purposes and goals of this Republican health care plan. They are dumping the coverage. Less people will be covered because they are saying that Medicaid should no longer be an entitlement. They did not talk about that. There is a health care plan which includes more than Medicare; it includes Medicaid also.

Medicaid will no longer be an entitlement. You will not be able to get Medicaid, which means seniors are in great jeopardy. Those who spend all their resources as a result of a very serious long-term illness will not be able to fall back on Medicaid and go into a nursing home and deal with a long-term convalescence because it will not be there without the Medicaid entitlement.

They are going to take away the responsibility of the Federal Government to provide for the poorest people, the health care. That is a great step backward from the Clinton plan that was on the table last year. It was called too complicated, too complex. It was more complicated because of the fact it tried to do more. It tried to address the problem of our civilization that we must be ashamed of.

American civilization is the only industrialized nation in the world which does not have universal health care coverage. By universal, I mean it is moving toward the coverage as many people as possible. Some have 96 percent. Canada may have 98 percent. But the idea of universal coverage is there in most of the industrialized nations of the world. Only South Africa is an industrialized nation that has no universal health care coverage.

So we are trying to move in that direction. This plan abandons it completely. In the Republican health care plan, there is no attempt to move toward universal coverage. In fact, there is a headlong gallop backward toward less coverage by denying the Medicaid entitlement. So we are in serious trouble.

I also hope that everybody who heard the previous discussion will use their faculties and engage and go back and look at a little recent history and know that the biggest felony in America was already committed. In the future you might say to saddle our children, our grandchildren, with bills that are difficult to pay in the future. You may call that a felony, but I think that is quite farfetched. That is going way out.

We have had the worse felony in the history of America take place right before our eyes. It is called the savings and loan swindle. Some of the gentlemen who are talking, certainly the one in the well, knows the history of the savings and loan debacle very well. Never before in the history of civilization has there been a swindle of the magnitude of the S&L swindle, where the taxpayers in America were made to pick up a bill of $250 billion, by the most conservative estimates. It is conservative, and it is not settled yet, because it is still going on. It might be $300 to $400 billion that the taxpayers

have to put out to clean up the savings and loan swindle. Never before in the history of civilization have so many stolen so much from so many and gotten away with it with so few prison terms, never before.

So the savings and loan association swindle is the biggest swindle in the history of mankind. Newspapers like the Washington Post and some others never seem to quite get the time or the space to deal with the magnitude of that swindle.

The party that now proposes to cut Medicare by $270 billion over a 7-year period has not dealt with the fact that we still have a $250 to $300 billion bill that we maybe ought to try to collect. The taxpayers of America maybe ought to say to the savings and loan associations that do exist now, to the accountants that were part of the conspiracy, to the lawyers for the banks that were part of the conspiracy, that they all pay a surcharge until that $250 to $300 billion is paid back.

The great swindle has taken place already. The greatest felony in the history of civilization, has taken place right before our very eyes, and very little is being done about it.

Finally, I want to address myself to the fact that everybody who hears should engage and listen and question and ask the question, is the Medicare system about to go bankrupt? You have heard them quote the trustees, and they have given you the names of the trustees, Shalala, people within the Clinton administration. Why do you not go and ask Donna Shalala, Mr. Rubin, why do you not go and ask them, is the system in danger of bankruptcy within 7 years?

Since they are being quoted, listen to their answer. they said so already. You have a problem of about $90 billion, $89 to $90 billion over the 7-year period.

It was assumed that, if you make the system more efficient, if you weed out the waste and the fraud, you could achieve the savings of that $90 billion over a 7-year period without draconian cuts in the benefits, without tremendous increases in the premiums.

So listen to their dialogue and take it a little further. Go ask the trustees. Go ask them, do you have to make this $270 billion cut? And also the $270 billion, how does it relate to the tax cut that the Republicans are proposing, which is $240 billion?

Let us listen. Americans, we are not spectators, we do not have to be witnesses. We can do things. We need action. That is what I want to talk about today. We need people to understand that, if you sit still and watch this as a spectator, the President as a Democrat against the Republican controlled Congress, and we wait for the great train wreck situation to evolve to its climax, you will be derelict in your duty as Americans.

You owe it to all of us, we elected officials have to do our job and we have not done it well and should find new ways to do it better. Even Democrats in the majority are going to have to find a way to deal with the fact that a Republican controlled Committee on Ways and Means will be on the floor with a bill which will have a closed rule. As Members of Congress, we have to vote it up or down, but we cannot have an opportunity to let our constituents know where we stand and offer some alternatives and go on record for the alternatives. That will not be the case. We have to find a way to deal with that, but that is another discussion for another time.

We need action now. Every American should ask themselves the question, what am I closest to, what can I do? My vote is not enough. I have an opportunity to vote every 2 years for Congress. I have an opportunity to vote every 4 years for the President. That is not enough. I also have in the Constitution the first amendment, a number of other things standing behind me which allow me to do things beyond my vote. Action is needed.

On the issue like education right now, let me make an appeal that you get involved in the fact that the education budget was cut by $4 billion, the Federal aid to education. You say that is a tiny amount. The Federal Government only puts in about 7 percent of the total amount for education anyhow. So why are you worried about that? Well, the cuts in the Federal dollars are followed by cuts in many States where the States are cutting the money available for education and the localities are cutting money. So we have an education crisis in most of the country. Certainly in the big cities we have a serious crisis.

I am calling for some action now. I think that we should call upon all of the children in the schools, we should call upon all the parents. And beyond the parents and the children, we should call upon the church leaders, the business people. Everybody should let it be known that we think education is very important.

The polls consistently show that education ranks in the top five concerns of Americans over and over again. No matter how other things fluctuate, crime may go to the top sometimes, health care may go to the top, education always comes out of the top five.

There is a basic understanding, the folk wisdom of Americans is that education does come first. It is like the early slaves coming out of slavery. They wanted first of all to learn to read. Education had the primary value for the early free families. Education in the black community has always been a highly charged value. Confusion about how to get that education and obstacles being placed in the way of preventing the obtainment of the education has been a problem. But the value is there. It is certainly a value in the African-American community. It is an American value.

Action is needed now, because the signal has been sent from Washington. The Republic controlled Congress has cut education by $4 billion. Head Start has been cut. The one program that sends the greatest amount of money out to elementary and secondary schools, the aid to the disadvantaged, called the title I program, the title I program has been cut by $1.1 billion. the summer youth employment program has been cut out completely, zero. We have an emergency. We ought to do something.

So we are asking that everybody—this is an appeal that I made to the National Commission for African-American Education. It is an appeal I made to an assemblage of the Congressional Black Caucus education brain trust. It was adopted and made a resolution that November 15, which is right in the middle of open school week, open school week is a national phenomena all across the country. So on Wednesday, November 15, we are asking that everybody who cares about education will do something.

Do not be a spectator. Bear witness. Go out to your local school. Everybody has a school near them. It is the nature of education in America that there is some school near everybody. Go to the nearest school and do something to let it be known that all citizens care about education.

In the leaflet we have put out calling for overwhelming support for education on November 15, the national education funding support day, we have stated that you can participate in the following activities: Show up at your nearest school. Just show up and let your presense be a testimony of your support. This is the first and most important step.

During the morning gathering at the school, spend 1, 2, 3 hours at the school. Do some upbeat things. Take some upbeat and positive action to demonstrate your love for children. Bring some pencils and papers and crayons if you are in a poor neighborhood to hand out to the children. Or bring chalk and erasers and supplies for the teachers inside the classrooms. If you are in New York City, they need chalk, pencils, erasers. We have a crisis in supplies in the great city of New York where we spend $8 billion on education. There is a crisis in terms of supplies and chalk.

There is a crisis also in terms of they do not have places to seat children. At the beginning of the school year in New York, there were 8,000 high school pupils who did not have a place to sit. They have not fully solved that problem.

So show up and do something useful. If the area around the school needs the rubbish and dirt removed, then bring some plastic bags and shovels and clean it up. Do something useful to help the program inside the school. Talk to the school administration, the principals. if it is not disruptive, ask what you can do to help inside the school.

At the same time as you pass out information about PTA meetings, school board meetings, legislative budget hearings, citizen rallies, you should sign up volunteers to help with school trips. Distribute a list of names and addresses and phone numbers of all elected officials, especially those elected officials who are directly responsible for education. You should engage all participants who come by to register new voters and to make sure they are registered themselves. If you re in an area like the area I live in, where there are 150,000 people who are not citizens, you should certainly encourage immigrants to seek citizenship. These are legal immigrants. They can seek citizenship. Show them ways to do that. Certainly the parents of children in the schools who are immigrants, you should encourage them to seek citizenship.

There are a number of ways on November 15, Wednesday, everybody can take action. You do not have to be a spectator. You can take action for education. You can deal with the fact that the President is going to be in negotiations with the Republican controlled Congress on the appropriations bill for education. There are a lot of items in there.

We want him not to lose his focus, to understand that the American people care about education. Education is one of the top priorities. It is not enough just to believe that; you have to manifest it and let it be known. We have to engage in what is called a manifestation to your empowerment, a manifestation of your concerns. You are not only concerned but you want to let it be known, you are a voter, you are out there, and you want to do something about the problem of funding for education.

I have just used education as an example. But there are many other ways in which we need to show that we are involved in this process. You have to believe that this is a turning point in the history of America. It is a turning point. You have to believe Speaker GINGRICH when he says we are going to remake America; take him seriously. Whatever you may think of the Speaker, he is competent, he is a great organizer. He is probably the greatest politician that has come along in the last 20 years. When he says he is going to do something, take him seriously.

The Speaker says we are going to remake America. He has a lot of bright people with him who believe that they can do that and are trying to do that.

I think they are very bright, but they have no compassion. I have called them high-technology barbarians because of the lack of compassion. I will repeat it again. They are the smartest people you can engage anywhere, but they have no compassion; and therefore I think they deserve the label of high-tech.

Barbarians. But they have to be taken seriously.

The Speaker has said we are engaged in war without blood. Politics is war without blood. Politics is war without blood. If you are engaged in war without blood, then do not sit there and assume that you are on the sidelines, that civilians are not going to be involved. There are no civilians in the political war. Everybody is in danger. Everybody must understand that you must engage in the war. He has said it. This is war. Therefore, you must make plans to participate in the war.

The allied forces must plan a defense against those who have mounted the attack. The Speaker has made it clear, he is going to remake America. We are mounting the attack. They hit the Nation on November 9, 1994, with a blitzkrieg. That blitzkrieg was very successful. They have taken control. They will march on. Allied forces must be united. Allied forces must understand they are in a war, and you must plan for the defense. Do not sit there and think that you are a civilian and you are going to escape. None of us are going to escape. We are all part of this war.

They are going to remake America, and I do not think we need to remake America. I have said that over and over again. America needs to be improved. There are all kinds of ways in which we should strive to improve America. We do not need to remake it. We need a steady process of escalating improvement, but they are going to remake it. And they are not going to remake it in the interests of the majority. America is going to be remade, and they have made that clear in all of their actions since January 1995. Since January 1995 of this year, it has been quite clear that, no matter what the Contract With America says, the overwhelming aim of the Contract With America is to make America a place where the elite can survive conveniently without any problem in terms of taking care of the majority. A small elite minority will be survivors, and they will enjoy the fruits and benefits of a great American economy, and the rest of the people will be thrown overboard. That is clearly how America will be remade if we sit by and let it happen.

We should not be spectators. There is a train wreck in process already. People have said, well, the great train wreck metaphor did not quite materialize on October 1. We passed a continuing resolution which will take us until the middle of November. The drama of a train wreck has been avoided.

Well, the train wreck process has started. It is pretty clear that the Republican majority is not going to yield. They are moving headlong forward with Medicare, the rape of Medicare, as one of the things they are proposing to do, into the entitlement for Medicaid. All kinds of things are happening which make the train wreck inevitable.

But recently it was announced that the Speaker and the majority in the House are contemplating sabotaging the train process, put a brick on the track and run away, not to engage. The train wreck metaphor always assumed you would have a situation where the President would veto the bills, the Republican majority in both Houses cannot override the veto, and therefore there would be negotiations at the White House. That happened once with George Bush. The negotiations at the White House would be between a Democratic President and a Republican controlled Congress.

What the Speaker has recently indicated is that in his war without blood, guerrilla tactics are going to be introduced. They are going to put a brick on the track and run away. Congress is going to pass the bills, send them to the White House, and adjourn.

I can think of nothing more irresponsible than that. But that is the kind of guerrilla action we have to look forward to.

Why not? Because in the process of avoiding the dramatic train wreck, what has happened already? What happened with the continuing resolution? The continuing resolution that has been passed already reduces spending and moves toward the level of spending that the Republican-controlled Congress wants. Already we have downloaded, we are spending less, moving in that area. Why do they not try to negotiate another continuing resolution and also further download the situation and decrease the budgets of all the programs?

That is what you call slow poisoning, a slow poisoning through the continuing resolution. Instead of attacking the victim with a knife and slashing him to death, you poison them quietly. The continuing resolution can poison all the programs that the Republicans do not want. The pain will be less visible. Most of this pain will not be felt until next October 17 anyhow. Some of it will be introduced, however, right away, through this poisoning process, the greatest most dramatic things in Medicare and Medicaid, the big programs.

What we do now will take effect in the next fiscal year. So you have to keep in mind that the process is important right now because of the pain it is going to produce later on.

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Some of the pain will not come until after the November 1996 elections. That is not by accident. Certain cuts are programmed and scheduled so that the impact will be felt after the November 1996 election. Keep your eyes on the process now. Do not be a spectator now. Get up and act now. Write your letters now. March and demonstrate now. The train wreck calendar is in process. It is no less a problem than it was 2 months ago.

Taxes, revenue, money, budgets, appropriations, that is the heart of the process of what is going on here. We do a lot of important things in the U.S. Congress. We should not minimize any of the things we do. What the Congress of the United States does affects the

life, health, and welfare of people all over the world. It should not be minimized ever. But of all the things we do, at the heart of it are the processes which relate to taxes, revenue, money, budgets, and appropriations. That is at the heart of the process.

My colleagues may wonder why I always come back to this discussion of the tax burden and the way the tax burden has been shifted over the last 50 years. I do not have my chart here today, but I had one last time which showed in graphic terms one of the great problems with America, one of the reasons why people who want to remake America are telling us that the good things will go bankrupt, they want to reduce school lunches because they are too costly, they want to reduce Medicare drastically, Medicaid, they want to end the eligibility. They have already ended the eligibility for Aid to Families With Dependent Children. Everything is going to go bankrupt, they say, because we have a deficit and it is possibly going to get greater and there are no more sources of revenue, no sources of taxes.

They have labeled certain people as big spenders. As I said last Tuesday, one of the right wing groups has labeled me as one of the five biggest spenders in the Congress. I proudly accept that honor of being labeled a big spender by their standards, although their standards are quite flawed.

I am the sponsor of a $60 billion bill. They have gone around and checked to see what the dollar figure is on the bills that Members have proposed. I am the sponsor of a bill which proposes to spend $60 billion for job training, for jobs for the stimulation of the economy, and $60 billion may sound like a lot of money.

How dare anybody propose over a 5-year period to spend, over a period of time to spend $60 billion a year to revitalize the economy. That is a stimulus to deal with what I consider to be a transition periods that we are now in. We are in a transition period where the new technology is throwing people out of work, downsizing and streamlining and pushing people out of jobs and we need a stimulus.

We may thing $60 billion is a great amount. The little nation of Japan, with 75 slightly more than 75 million people, has a package now going forward that is $90 billion a year. A stimulus package that is $90 billion. So a $60 billion proposal, I do not have the power to get it passed, but if we want to judge me on what I see as a vision, the vision of America I have, what I see as the remedies, then I accept that judgment.

On the other hand, the flaw in this rating of big spenders does not take into consideration what a Member is against, the spending they are against. As I said before, Rush Limbaugh, who chose to highlight this on this show, needs some people who know how to subtract. Take all the programs and all the times I have spoken on this floor and all the amendments I have introduced to subtract from the Federal budget. Programs that I am against mount up into the billions of dollars.

The F–22 that will be manufactured in NEWT GINGRICH'S district of Georgia. Will cost us $12 billion over the next 7 years. I am for taking that one out. The B–2 bomber, over the life of its history, will cost us $33 billion. I am for taking the B–2 out. The *Seawolf* submarine, more aircraft carriers, star wars, the CIA.

I had a very specific amendment on the budget to reduce the CIA budget by 10 percent a year over a 5-year period. If we assume the New York Times figure of $28 billion for the CIA and the intelligence operation is correct, then, over a 5-year period that $2.8 billion would amount to quite a bit of money that we could use to replace the $4 billion they took out of education, the $7 billion they are taking out of low-income housing. We could do things with that $2.8 billion per year over a 5-year period or, let us extend it to a 7-year period.

The CIA has proven over and over again that not only is it of dubious worth, but it is also dangerous. The CIA recently revealed that they had a petty cash fund of $1.5 billion that nobody knew about in high places. The Director of the CIA did not know about the $1.5 billion. The President did not know about it. Nobody knew about it in high places. How much more do they have? How is the CIA able to have a $1.5 billion slush fund? That is what they admit to. I am sure it is higher. A $1.5 billion slush fund and nobody knew about it.

I think one of our famous predecessors said when we have a million here and a million there, we get into the billions and it all starts adding up. A billion is a lot of money, ladies and gentlemen; $1.1 billion is the amount of the cut on the title I program. If they would just please give us, CIA, your petty cash fund, your unauthorized petty cash fund, give us your unauthorized petty cash fund to make up the $1.1 billion, we will let them keep the rest.

I know what the deal is. I heard the Permanent Select Committee on Intelligence say now that we know about that money, we have taken it back. How is it the Office of Management and Budget did not know about it?

Office of Management and Budget specializes in cutting small programs. They cut out like library programs that acquire foreign language books in universities; they cut out little programs that train teachers; they are specialists in going through and cutting out little programs. To be small is to be dangerous in the Office of Management and Budget. How, Office of Management and Budget, did you ever let the CIA acquire a $1.1 billion slush fund?

So the message is, if we look at the record of MAJOR OWENS in terms of spending, and we subtract all the things I have said we should stop spending for, including the farm cash subsidies that flow to places like Kansas to farmers who are making $400,000 and $500,000 a year, let us stop giving money to farmers that make more than $100,000 a year. That is a good cutoff point. They will not give me that kind of cutoff for the welfare recipients in New York, but for the welfare farmers we propose let them keep getting cash subsidies if they make $100,000 or less.

No, no, we put that on the floor and it was voted down. Where was the Rush Limbaugh statisticians to figure that one out when that amendment, cosponsored by myself, was voted down? We could save a lot of money if the farm subsidy program were just limited to people making $100,000 or less. But this Congress would not tolerate that. It only got 47 the last time we put that on, 47 votes out of 435.

Americans had better engage in a dialog. There is a lot of waste in government, and the places where they will not touch it are the places we should all be looking.

Take a look at a recent report that was put out by the Center on Budget and Policy Priorities. The Center on Budget and Policy Priorities said congressional Republicans, I am quoting from the National Journal's Congress Daily, October 11, 1995, ''if the Rush Limbaugh researchers want to track this,'' October 11, 1995, the National Journal's Congress Daily.

The Center on Budget and Policy Priorities said, ''Congressional Republicans in their budget cutting fervor are giving corporate subsidies a free ride.''

The study was based on the Congressional Budget Office report defining which Government programs or tax breaks constitute business subsidies and focus on tax appropriations and reconciliation proposals passed so far in the House.

It found that for every dollar that this majority, Republican majority House, has reduced corporate subsidies provided by Government program, for every dollar they have reduced the House has increased corporate tax subsidiaries some other way by nearly the same amount, $1. So addition and subtraction. Do not let the Republicans play games with us. They have reduced some of the corporate tax subsidies, but for every one that they have reduced in dollar value, they have given the same amount in some other way.

Therefore, a statement accompanying the study contended, ''Congress is achieving an overall reduction of only $6 billion, or less than 1 percent, in the $724 billion in corporate subsidies the Federal Government is slated to provide over the next 7 years.''

Let me read that again and put that down in this dialog that we have to participate in. Remember this figure that this Republican majority that is so intent on cutting Medicare by $270 billion, this Republican majority is

only willing to cut the corporate welfare by $6 billion, which is less than 1 percent if we look at the total amount of $724 billion that the Government is slated to provide to corporations over the next 7 years.

Herein is the problem. Not only must we cut defense programs, not only must we cut wasteful farm subsidies, weapon systems, and a CIA that is spending our money in a very excessive way; we must cut the subsidies that we are providing for corporations.

''This lack of progress,'' I am reading again from the report:

> This lack of progress in reducing the overall level of corporate subsidies stands in sharp contrast to the deep cuts that Congress is making elsewhere in the budget. If overall corporate subsidies were to be cut to the same degree that the Congressional budget resolution targets programs other than defense and Social Security, they would be reducing $122 billion over the next seven years out of the corporate subsidy budget.

Let me repeat the figures. These are figures we should put in our private database and remember as we go through the dialog about where America is going and what money and funding will be available for programs that are worthwhile for all the people. Understand that the corporations are refusing, the Congress is refusing to reduce the subsidy for corporations, which now would be $724 billion over a 7-year period. They are refusing to reduce that in the same manner that they are reducing other nondefense programs. If they did that, we could save $122 billion over the next 7 years.

Remember, as we listen to this dialog of the swindlers who want to take $270 billion from Medicare and they want to end the entitlement for Medicaid totally, the heart of this whole process is remaking America, is the question of who will get the money.

Will the American majority, those in need, or the educational establishment in order to guarantee we have productive taxpayers in the future, will the places that will do the most for America be the recipients of the funds or will they give it to the Americans having the most, corporations making profits at a great booming rate? They are the ones who should be paying more; they are only paying 11 percent of the total tax burden, while families and individuals are paying 44 percent of the tax burden. Here is the time to correct it.

If the Republican majority were sincere, if the salesmen who tried to sell us the $270 billion cut in Medicare as an effort to save Medicare, if they were to got to work on cutting the corporate subsidies, we would be able to lower the deficit at the same time, not make draconian cuts in Medicare, Medicaid, and education, and still go forward with a fair tax system. Raise the tax burden, eliminate the subsidies, have the corporations carry more of the burden. That is the answer.

Now, what will happen? They are going to make these draconian cuts and try to sell them to us by coming with a set of diversions. How will the Republicans try to get away with all this? How will they face senior citizens next fall at election time? How will they face the parents of children who have been deprived of lunches? How will they face the people who are sons or daughters of immigrants or people who are the fathers and mothers of immigrants, or people who are certainly immigrants themselves who have become American citizens? How will they get away with all this? The great massacre will be covered by diversions.

They will have arguments on gun control to divert the attention of people who care about guns away from the fact that they are being robbed of an opportunity to get an education or to have a job retraining program when they are laid off. Large numbers of people in the working class care a lot about guns. I am sorry they do. The great majority of American people, 80 percent, want some form of gun control, and they can certainly care about guns and agree to the sensibility of gun control, but, no, they will divert us. They will be talking about guns and the needs to save America by having more freedom to use guns and less gun control.

They will be talking about the Voting Rights Act being a threat to Americans, that if we draw districts in a certain way, that is un-American. Odd shaped districts have been drawn since the history of the country by both parties, and America has never suffered.

They will be after the immigrants, yelling and screaming about the immigrants are causing the downfall of America. Well, immigrants have traditionally been a vital part of the American scene, and America is doing very well compared to most of the other industrial nations of the world.

They will talk about affirmative action, affirmative action and a colorblind society. Again, I have talked about that in the past. Affirmative action is necessary, to correct past wrongs. We had 232 years of slavery, the greatest crime in the history of humanity, 232 years of slavery in America, 100 years of brutal oppression following that 232 years of slavery. We cannot expect the African-American population as a group to make up for all that lost time.

There was a recent book on wealth, black and white in America, and one of the important conclusions of that book was that in terms of wealth versus wages African-Americans are coming closer and closer. Certainly middle class African-Americans who have an education are closer and closer to the wages of middle class whites, not the same but getting closer all the time. The gap has been closed over the past 10 years. Great advances have been made in terms of wages.

But when we look at wealth, and wealth means more than wages, it means ownership of assets, when we have a home, we have a car, we have stocks and bonds, when we look at wealth, the gap is wider than ever before between middle class African-Americans and middle class whites. Why? The biggest factor in wealth is inheritance. What is passed down from one generation to another is the biggest factor. The biggest factor of home ownership in America is the fact that the mothers and fathers are able to give a young couple the downpayment on a house. And the biggest body of wealth held by average Americans is in their homes.

So it is just common sense. If we had 232 years where your slave ancestors were passing nothing down, there was nothing they could pass down because they had nothing for 232 years, they are behind, and then 100 years of oppression after that where they had very little to pass down. Then they are not ever going to catch up, and nobody says they must catch up.

But understand, the great disparity that has been inflicted on African-Americans is because of slavery, because of slavery, the greatest crime in the history of humanity, the obliteration I call it. The obliteration. It was an attempt to obliterate the humanity, the soul, of a set of people so that those people would be a more efficient beast of burden. They would be more efficient in industry, mostly the agricultural industry, but efficient machines, efficient beasts of burden. It was an attempt to obliterate them and take away their humanity. Do not let them have families, do not treat them like human beings. Sell them as if they were commodities.

That great crime of slavery cannot be just ignored. It is a vital 232 years of American history, 232 years. I have talked about slavery before and people have gotten upset. I have talked about the great Atlantic crossing, the number of people lost, and the figures I used aroused Rush Limbaugh researchers, and I conceded the point that I had made a mistake, quoted in the New York Times, which itself was quoting a sort of folk history that is prevalent in the black history about the numbers. It is like Paul Bunyan exaggerating the numbers.

The fact is that millions were lost crossing the Atlantic in the slave trade. Millions were lost crossing the Atlantic, and millions were lost in the brutality of the slave industry in America.

If we want to quibble like some of the Nazis still want to quibble about the holocaust, it was not 6 million, they want to talk about 5½ million, or 4 million. If we want to quibble, go ahead, but I say to those who are interested in the conversation and the dialog, just mourn for the first million. Mourn for the first million. Everybody will concede there were at least a million lost crossing the Atlantic. Everybody will concede there were at least a million lost through the brutality of the slave trade in America.

In North America, the slave trade was kind compared to the slave trade

in the Caribbean Islands and the slaves trade in Brazil and South America. The practice in Brazil and South America was to work the slaves until they worked them to death. They did not have breeding farms. They did not attempt to keep the slaves alive and get offspring from them like they did with their livestock. They just worked them to death and brought in more, so the numbers will never be known.

So anybody who thinks they can count the numbers of slaves that came into the New World by looking at British ships and British accounts and assuming this whole thing was organized and regulated is not naive; they are dishonest. We cannot regulate savings and loans and banks in America to keep them from swindling taxpayers. How do we think in those days there was any kind of real regulation of a slave trade that was pumping money into the coffers of some of the most respected people in the European nations?

So let us not quibble about the numbers, Rush Limbaugh and your researchers. Let us not quibble about the numbers. If we care about the subject, than just mourn for the first million. Mourn for the first million slaves who were treated like animals and died like animals. Mourn for all of those who were thrown into the breeding pens and forced to breed like animals. Mourn for all of those who died horrible deaths as a result of being under masters that wanted to work them to death. They wanted as much as they could get out of them until they dropped dead. So there is plenty to mourn for.

Do not make a joke out of slavery. When we make a joke out of slavery, we are endangering ourselves. I think of your posterity, your children and your grandchildren, may not appreciate it. Do not make a joke of the greatest crime ever in the history of humanity, the attempt to obliterate the souls of millions of human beings.

We are not spectators, as I said before. We do not have to stand by and watch this diversion. This diversion is going to take place. Gun control, affirmative action, voting rights, immigrants, that diversion is going to take place. We know it will take place, so let us prepare ourselves. Let us get our allied forces together.

The constitution provides us with the weapon. We can demonstrate, we can petition, we can march. Do not sit and mourn about somebody else's march. Let us make our own march. The caring majority ought to be marching, the caring majority should get ready at every level. What I call manifestations of empowerment should be taking place at every level all across America.

What is a manifestation of empowerment? It is an action like the one I just proposed for Wednesday, November 15. Come out, wherever you are, and go to a public school. Let it be known we care about education. That is a manifestation of empowerment.

In every way the health care problem is not just a national problem. They are threatening to sell the hospitals in New York City. Some of the best hospitals in the world that have great reputations, that have served people for several generations are now to be sold and made into private hospitals. So we are saying in New York come out on a given Sunday, let us have hospital appreciation Sunday. Let all the churches bring their congregations from church to the hospitals and let us surround them and let it be known that people care about their hospitals, people care about health care in various ways in cities, in towns. Get people to moving and do things. We cannot wait until November 1996 and think we can deal with the problem then. Get people moving now.

Mr. Speaker, this is nothing new. I have an action paper, which I call ''The Third Force.'' It is a draft paper, and I may change the name and call it ''The Caring Majority Agenda,'' but I put it out in June and I have circulated it to colleagues of mine in the Congress and in the Congressional Black Caucus, and to members of the Progressive Caucus, I have circulated it to labor leaders and other elected firms and I have said we have to get moving. We cannot wait until November 1996, let us move now.

I will quote from my action paper.

Republican arrogance and impatience have clearly framed the parameters of the battleground. The issues and causes around which we must mobilize are clearer now than ever before. The questions are: Is the United States of America a nation of the rich and powerful only? Shall the great majority of the population remain immobile while it is reduced to a status of urban servants or suburban peasants? Shall the resources of the richest Nation that has ever existed in the history of the world be used primarily to benefit an oppressive elite minority? Or shall public policies be shaped to share our real wealth and spread the benefits of our collective labor, our hard won peace, and the exploding advances of our technologies? Shall we share it for everybody?

The oppressive elite majority presently in charge of the Congress has thrown down the gauntlet. An assumption has been made that the majority vote in the Congress and the financial contributors to these Members of Congress are the only ones who have the real power to decide the basic questions facing our Nation.

A mistaken assumption has been made that until 1996, only the votes on the floor of Congress shall decide the fate of America as it moves towards the year 2000. It is a sacred duty of the caring majority to demonstrate that Americans do not have to sit idly by as spectators while their elected officials wreck their democracy. The ballot box on election day is a primary instrument, however, it is not the only means toward the end of freedom and justice for all.

The people have a right to intervene. To save our Nation we must interpose or creative political energies and our individual bodies to halt the onslaught by a merciless set of hightech barbarians who have misinterpreted their election by an oppressive elite minority as a mandate to tyrannize the caring majority.

The caring majority must rise to defend itself. To lead the crusade to save America, we need a caring majority agenda. From coast to coast, in every one of the 435 Congressional districts, we need citizen activists to insist that they are ready to fight intensely to save their Nation from catastrophe. This caring majority force needs ordinary people willing to participate in a national master plan for justice. We need legions recruited from among those who suffer as a result of the current oppression, which is imposed by the oppressive elite minority, and we need legions from among those who are not suffering but who understand the inevitable destructive path of the present blitzkrieg to remake the American government in the wrong direction.

The primary weapons to be employed for all strategies and tactics of the caring majority should be nonviolent weapons. A lapse into violence against the entrenched establishment automatically guarantees defeat. Nonviolent direct action employed in conjunction with clear sets of demands shall be the operating rule of the caring majority. Massive nonviolent direct actions and coordinated simultaneous other actions are what are necessary to carry the caring majority forward.

Now, Mr. Speaker, I am just reading portions of an action paper that I put out in June. I am still waiting for comments from key people. I also have a timetable here. I have an agenda, a partial agenda, that was proposed to the Congressional Black Caucus. About 3 weeks ago, I said the Congressional Black Caucus should endorse groups that support its agenda. The Congressional Black Caucus should put out an agenda and have groups march to support that agenda, and that agenda should be the caring majority agenda, an agenda for everybody to strongly urge all concerned groups to lobby, demonstrate, petition, write letters, and march in these critical days ahead when the President will be negotiating with the Republican-controlled Congress to save the Nation from devastating budget cuts.

First on the agenda is to fight aggressive racist attacks in all forms. Fight the attacks on affirmative action. Fight the attacks on school desegregation, on set-asides, and the Voting Rights Act. Fight government and unofficial acts which encourage sexism, antisemitism, homophobia, immigrant persecution or denial of basic rights to any groups.

No. 1 on the agenda must be a fight against any racism, any divisiveness. We need to build allies. We need to come all together and understand that America should be America for everybody and we cannot have separations in the process of the fighting. Otherwise, we play into the hands of those who are in the elite minority profiting from those divisions.

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Fight for education as a national opportunity. Fight for education as a national priority. The opportunity for an education must remain a national priority. Fight to stop all cuts in Medicaid as well as Medicare. This Nation still needs a national health insurance program with universal coverage. Fight to stop those cuts. Fight to stop

the taking away of the Medicaid entitlement. Fight to end the monstrous cuts in the HUD programs for low income housing. Fight to support the retention of adequate wages and pensions for the military, Federal workers and other public service workers.

Fight to increase the minimum wage. The Republican majority said they will not entertain any dialog on increasing the minimum wage. One hundred American economists have said we need an increase in the minimum wage. The only way you can have workers keep pace with what has happened is to increase the minimum wage. All we are proposing in the Gephardt bill, which I am a cosponsor of, is a measly 45-cent increase in two steps, a 90-cent increase in the minimum wage.

The Republican majority says they will not entertain any discussions of any increase in the minimum wage.

So we need to fight to increase the minimum wage. We need to fight to guarantee the right to organize unions in the worker replacement provisions. To end striker replacement, we have to first support President Clinton's Executive order. We need to fight to maintain health and safety conditions in the workplace. There has been a fight on the Occupational Safety and Health Administration [OSHA]. We need to fight that.

We need to fight for cuts in the defense budget, those cuts that will downsize the budget and generate the money to fund the programs needed. We need to fight for an increase in foreign aid to Africa, Caribbean, Haiti. Haiti was one of our proudest moments in our foreign policy. The anniversary of the liberation of Haiti will take place shortly. We should take note of the fact it was a shining hour, a great moment, for American foreign policy.

We need to fight for an increase in the funds for youth crime prevention program. The majority has eliminated this program. We need to fight for an increase in those programs and a decrease in the prison funds to build prisons.

We need to fight and unite with the caring majority for the retention of Social Security as it is now. They are chipping away at Social Security. Do not believe what you hear. Stop moving the age requirement back. Stop tampering with the COLA's. This is an agenda for the caring majority. You need to move on an agenda that is focused.

I have a timetable. You need to have actions in your localities, in your States. You need to do things. Americans are not spectators. We are not put in that spectator role. Actions at the local level, make allies, all races, all sexes, all religions. And finally we need an action in Washington.

The whole culmination of this activity should take place in Washington. Washington is the place, Washington is the key. What happens here sends out signals. It determines the way things are going to go in the States and in the cities. Washington does not provide all the money for our cities and local government, but they set the tone. So, therefore, at some time on this agenda, the climax has to be the caring majority with its agenda has to come to Washington in millions. The caring majority has to come.

I propose next spring, the anniversary of Tiananmen Square in China, why don't we come together and work toward it between now and next June? Tiananmen Square in China took place in the first week of June. Tiananmen Square I offer because it is so important to note the fact that a totalitarian government of China could not resist, could not stop the flow of information out from Tiananmen Square to the rest of the world. When you get that many people together with determination, they built statutes of liberty, the media was there. The media tends to try to ignore the caring majority agenda. You cannot get the same exposure for the caring majority agenda that you get for the Republican health care plan.

So a Tiananmen Square type operation, have a million people come together on the mall. You have an agenda. There is no question why you are there. Come together to confront the Congress, confront the White House. What we need most of all is direction for our Government. Let us plan to do it. You are not spectators in America. You have the right to get up and move. Let us use our right and let us make certain that the remaking of America does not take place while we are sitting on the sidelines. Troops, get ready. The march you make will be to save your own soul and your own nation.

THE TRUTH ON MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, we have an off day today, and I thought that I would take advantage of the opportunity to both respond to some of the charges made with respect to Medicare and then probably, more importantly, talk about exactly what it is that we are going to me marking up next week with respect to a really very, very needed reform of the Medicare program in America.

I wanted to talk particularly to the senior citizens today, Mr. Speaker, because I know that there is a great deal of anxiety and concern and some confusion as well. My gosh, if I were watching this debate on a day-to-day basis at home and trying to ferret out the truth from the confusion, I think it would be a tremendous challenge.

So what I would like to do is, first of all, think about the one charge that has been raised on a daily basis with respect to Medicare by the minority party, and then go into the actual details of what we are going to do.

What we have heard here on the floor on a regular basis is that Medicare is going to be slashed by $270 billion over the next 7 years in order to pay for tax cuts for the rich. I would like to take that apart on a piece-by-piece basis and show that it is completely untrue. I would like to do it from the back end, because I think that the tax cuts for the rich is probably the kind of class warfare that turns one off, but has a kind of a hook. It is sort of like pornography. You know, people are offended by it, and they recognize that they are hearing something that is wrong and that there is something fundamentally wrong about it; but, at the same time, there is something attractive about it, because it seems as though there is a hook there.

Well, the hook of class warfare is it is an ugly hook, and it is a hook that basically says we should not aspire. It assumes that people do not want to aspire to the American dream and they do not want to aspire to be able to actually improve their position materially for themselves and for their families.

The fact is that with respect to the tax cut, it has absolutely nothing to do, nothing whatsoever, to do with Medicare. It has nothing to do with anything other than a tax cut. And the Medicare trust fund, which is the part A trust fund, is not affected by whether we raise taxes or whether we lower taxes.

The Medicare trust fund is actually funded by the 1.45 percent payroll tax that comes from people who have earned income, workers, employees, and employers. Anybody that has earned income gets taxed at 1.45 percent, the worker, the employee, plus another 1.45 percent on the employer. And there is no limit on what that amount of money can be. There used to be a cap. You know, the first $60,000 or so of income is subject to the Social Security tax, and that that is what funds Social Security. But there is a ceiling on that, and the ceiling is the first $60,000. There is no ceiling on the amount of money that is taxed for Medicare at this 1.45 percent amount.

All of that money goes into part A of the Medicare trust fund and it is part A of the Medicare trust fund, it is that HI, health insurance trust fund, that is going bankrupt.

I have some charts here. The reason we know it is going bankrupt is that the trustees of the trust fund are required by law to make a report to the President on an annual basis, to talk about and describe the actual status of the fund, of the trust fund themselves.

By the way, this is not a partisan group or political group. If it is political, it is partisan in terms of being members of the party of the President, whoever the President happens to be. In this case three of the members, three of the trustees are Robert Reich, the Secretary of Labor, Donna Shalala,

the Secretary of Health and Human Services, and Bob Rubin, the Secretary of the Treasury. In addition, there is the Commissioner of the Social Security Administration and two private sector trustees. They all sign this report. They say, and this was dated April 3, 1995, the fund is projected to be exhausted in 2001. That is under the worst case scenario. Under the middle case scenario it is projected to be exhausted in 2002.

Now, the money that goes into this fund, and this is the important point, the only money that goes into that fund comes from the 1.45 percent payroll tax that is paid by workers, working people in this country. That is where the part A trust fund revenues come from. They do not come from tax revenue.

We could have an increase and make a marginal rate of 70 percent, and not one more dollar would go into part A of the Medicare trust fund. That is what is going bankrupt.

You can see right here the trust fund reserves. Right now there is actually about $150 billion in the trust fund. This is a chart that is reproduced from that same April 3, 1995, annual report of the health insurance trustees. By the way, anybody that wants a copy of that report, they are available from your congressional office. If you simply call the Capitol switchboard and ask for your Congressman and talk to their legislative assistant that deals with health care, ask them to send you a copy of the trustee's report on the HI trust fund dated April 3, 1995. There is a 14-page summary of it. If you call 202–225–3121 and ask for a copy of it, they will give you the full copy. It is well written, plainly written, and it is not a partisan document. It simply describes what is going on with this program.

Anyway, this is a chart reproduced from that report. It shows you very clearly that starting in 1996, the fund actually is paying out more than it takes in. In other words, it is paying out more to hospitals and doctors than it is taking in in revenue in that 1.45-percent amount. As you can see, you get to zero in about the year 2002, where there is nothing left whatsoever in the fund. Once there is no money in the fund, there is no money to pay. Without a change in the law or a change in the tax rate, that money is exhausted, and it is all over for the payments.

That is why the trustees in their report are so strong and so clear about saying Congress has got to act. Congress has got to do something to protect this fund if we are going to have Medicare in the future. And there has got to be a resolution brought, or we are going to be completely without health care for senior citizens with respect to the part A.

So that is what the point is. The point is that the tax issue, this issue of raising or lowering taxes for the rich has absolutely nothing to do with Medicare part A. Not one penny.

Now, let us look at the charge with respect to this idea that the cut goes to the rich. What did we do in August 1993 in this body? I was a freshman Congressman at the time and I remember it vividly. What we did is we passed the greatest, the largest tax increase in the history of our country. One of the things that we did in that tax increase is that we increased the highest marginal rate, first of all to 36 percent, and they we put a 10 percent ''millionaire's surcharge'' on top of that, so that people that have income of more than $1 million would have an additional surtax of 10 percent. So the top marginal rate right now in the United States is 39.6 percent.

Well, there are a lot of people who think that that is bad policy. There are a lot of economists that will tell you when you increase the marginal tax rate at the top, you are not going to actually increase revenue. What you will find is people's behaviors will change. I think that those people are correct.

But the fact is that that change in the law was made in August 1993, and it is still the law, and this Congress has not done anything and does not intend to do anything and is not going to do anything to change that law, to repeal that, to come back and repeal that 10-percent surtax that was added on.

Now, if this Congress, if the majority party, the Republican Party, wanted in fact to give a tax cut to the rich, would not the first place to go be to repeal the add-on, that surcharge that was made into law in August 1993? It seems to me that is where we would go. But there has been no talk of that. Of course, there has been no talk of that.

But what we have done is created a tax break to give relief to middle-income families. Over 75 percent of the tax relief in the tax cut package that is part of the Contract With America goes to families making less than $75,000 per year. The tax break goes to families, and it goes to working families. It goes to that group of people in America who are shouldering the greatest amount of the tax burden, and it tries to bring some tax equity so it is easier to raise a family in the United States.

Let us go to the first part of the catechism that you hear so frequently in the Chamber, and that is that we are slashing Medicare by $270 billion.

Well, how is it possible? The real problem in Washington, and probably the greatest change that we made in this Congress, the most important change and one that rarely gets talked about because it is a subtle change, but it will have more to do with giving the truth, telling the truth to the American people about the money that is spent in the U.S. Congress, their tax dollars, is this change away from what is known as baseline budgeting.

Basically baseline budgeting is a kind of phony accounting system that is used nowhere in this country except right here with the Federal Government. What it does is it says that we predict that we should be spending *x* number of dollars in 1996 while we are spending *a* number of dollars in 1995. We think that in 1996 we will probably be spending this amount of money, and because that is what we think we should be spending, then if we spend less than that, that is a cut.

Let us make it in real terms. If we spent in 1995 $175 billion on a program, and the Congressional Budget Office says that they think we are going to spend $200 billion in the program in 1996, but the Congress says well, no, we don't think we need to spend $200 billion, we think we can do the same job or a better job for $185 billion, well, according to the CBO, that used to be, before we changed the law on this, that used to be known as a $15 billion cut, even though we were spending $25 billion more in 1996 than we spent in 1995.

Nowhere else in America, nowhere else in America, is that a cut, only right here in Washington. The problem with it is that it confuses the public. It confuses the voters and makes it very, very difficult for voters to make real choices about whom they want to represent them in the U.S. Congress or the U.S. Senate or in the White House.

What we have done this year, the very first day of the Congress, and then we memorialized it again in some other budget language that came out with the first budget resolution, is we have changed the law, so that now when we talk about spending for 1996 and the numbers that are in this budget, the numbers that are in this 7-year budget that go out to 2002 are not based on predictions of what we should or could or might be spending in the future.

They are based on what we spent in 1995, the same way that you do your accounting at home, the same way that companies all over this country do their accounting. It means that, if you spent $150 a month, if a person in a family spent $150 a month on utilities in 1995, and they spend $160 a month on utilities in 1996, that is a $10-per-month increase. That is how much it is. And we are going to use the same language right here in the U.S. Congress that everybody else is using in this country.

Well, let us see what that means. What it means is that we, under the Medicare proposal that will be debated on the floor next week, that has been a subject of many, many hearings in the past 2 years actually, and over this summer we will be spending twice as much, twice as much on Medicare in the next 7 years than we spent in the previous 7 years.

To make it more close to home, we will be spending $4,800, we are spending right now $4,800 per beneficiary per year right now. That is going to $6,700 per beneficiary in the year 2002. By the way, does it take into account the predictions on demographic changes in terms of new enrollees? Because we

know that more and more we are having increasing enrollment in Medicare as we have an aging of our population.

So what we know is we are going from $4,800 per beneficiary per year, that is about $400 per month, up to $6,700 per beneficiary per year in the year 2002.

Now, if that is a cut, where is the cut? How is that a cut? Could somebody please explain to me how that could possibly be called a cut? It is about a 35-percent increase in spending per beneficiary.

All right. So let us start with those basics. We have $4,800 a year going up to $6,700. Obviously we are increasing the amount of money to be spent on Medicare. The real question is, A, can we provide health care for every senior citizen in this country over the age of 65 for that amount of money? And, B, can we do maybe a better job than the traditional fee-for-service medicine which has been the hallmark and only way we have distributed Medicare up until very, very recently?

We have done some pilot programs with managed care models around the country now with Medicare. But up until recently, the only kind of medical services that were available under Medicare was traditional fee for service.

I happen to think that traditional fee for service is a heck of a good way to deliver medical services. But there is a problem when nobody is minding the cost factor, when nobody is paying attention to how much it costs. Let us face it: If the Government is paying for all of it, then the patient does not particularly care about it. If the Government is not being vigilant about what things are costing and whether or not the bills they are getting are real bills and ought to be paid, then you have got terrible problems. That is the situation that we have come into with respect to Medicare now.

In fact, we found out from the Director of the Congressional Budget Office at hearings in 1994 that they believe 15 to 20 percent of all of the money that the Health Care Finance Administration pays out is in fraudulent claims. Can you imagine that? Fifteen to twenty percent of that money? That is stunning. And what we have done in the Medicare reform proposal that we will be voting on, and I believe passing next week in this Chamber, is we have put together an 11-point program to ferret out for the very first time, to genuinely and honestly and aggressively and with a very tough program, get at waste, fraud and abuse in Medicare, and particularly fraud.

What are we going to do? The first thing we are going to do is make the 35 million beneficiaries, Medicare recipients, we are going to make out of them, we are going to make 35 million watchdogs of the Federal Treasury. And they are going to be given, every single beneficiary will be given a financial incentive to actually look at the bills, to ferret out the mistakes, to find out if it is a bona fide bill or not a bona fide bill.

Every single Member of this Congress, I guarantee you, has been told stories by his or her constituents at home about specific examples of overbilling, weird examples of billing that goes on months after a person has passed away, double billings, billings for procedures that have not been actually performed, billings for procedures that were performed but then were rebilled several days later.

There are more horror stories about the fraud and abuse. You can understand that, when you see that, up to 20 percent of all of the money that is spent on medical costs under Medicare is believed to be fraudulent.

So we have put together, there is going to be a Commission that will specifically look at private sector methods, because I can tell you in the State of Ohio, where I come from, that the Blue Cross/Blue Shield plans in northeastern Ohio realized there was a terrible problem with fraud. They got onto this about 8 or 10 years ago, and they went after the problem. They decided they were going to solve this problem.

What did they do? They contracted with people that ferret out fraud and abuse in the private sector. Think about it for a second. We had a shoplifting problem in this country up until a number of years ago, before the big companies figured out how to get a handle, really get a handle, on shoplifting as an overall problem.

Now we know that, if somebody goes into a place like a K-Mart or a Sears, they are not going to be able to get out of there stealing things. Why not? Because large retailers decided they were going to do something about this problem and they were going to get at it and solve it and were not going to allow it to affect their bottom line and affect the way they do business.

That is exactly what insurance companies have done around the country, and that certainly is what Blue Cross and Blue Shield of northeastern Ohio has done. They have gotten at that problem. That is exactly what we are going to do with respect to Medicare. We are going to get at that problem. The first way that we do it is with making 35 million Medicare recipients watchdogs of the Federal Treasury.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. I thank my colleague for yielding.

I just wanted to address a point. I was in my office doing work and listening at the same time as we all do, and noted your commentary with regard to the trustees and the Medicare Trust Fund. I wanted to take this opportunity.

Mr. HOKE. I would be happy to yield for a question or a comment, not a long speech.

Ms. DELAURO. I will be quick. The point is in fact I think there is some misrepresentation of what the trustees have said. I will quote from the September letter from the trustees addressed to the Speaker and to the majority leader.

The trustees have said, because I know that that is a read on which my colleague has hung his commentary and his colleagues have hung the commentary. And this is a quote from the trustees, from really actually the Secretary of the Treasury, Mr. Bob Rubin, a Wall Street business person before he came to this position. Simply said, no Member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

I just might add the trustees in fact did say that $90 billion was more in the nature of what was needed over a period of time to look at the solvency issue. And to that end, in the Committee on Ways and Means this week, our Democratic colleagues offered a specific amendment that talked about a $90 billion savings over the next 7 years to deal with the solvency problem to the year 2006.

That was defeated by the Republicans. The question is, if $90 billion is what the trustees have said is necessary and we want to hang our hat on what the trustees have said, then what happens to the additional $180 billion? You cannot rely on the trustees on the one hand to talk about what they have said that we need to do for the solvency, and then discount what they say when they say it is not $270 billion, but in fact it is $90 billion.

In response to the cry that the Democrats have not had a plan or proposal, in fact and in deed there was an amendment in the Committee on Ways and Means for $90 billion. In addition, a commission was set up that would deal with the longer solvency problem, what has to do with baby boomers, a bipartisan commission set up down the line. That was defeated. You have to represent the entire situation rather than just wanting to use the trustees as it might satisfy your point.

Mr. HOKE. Reclaiming my time, I will respond to that.

Ms. DELAURO. Mr. Speaker, I would like to put in the RECORD the op ed that was written by the trustees in response to this issue and talking about $270 billion being factually incorrect.

[From the Houston Chronicle, Sept. 5, 1995]

IT'S NOT NECESSARY TO CUT MEDICARE BENEFITS

(By Robert E. Rubin, Donna E. Shalala, Robert B. Reich, and Shirley S. Chater)

The United States is involved in a serious examination of the status and future of Medicare. Congressional Republicans have called for $270 billion in cuts over the next seven years, claiming that Medicare is facing a sudden and unprecedented financial crisis that President Clinton has not dealt with, and all of the majority's cuts are necessary to avert it.

While there is a need to address the financial stability of Medicare, the congressional

majority's claims are simply mistaken. As trustees of the Part A Medicare Trust Fund which is the subject of the current debate, and authors of an annual report that regrettably has been used to distort the facts, we would like to set the record straight.

Concerns about the solvency of the Medicare Part A Trust Fund are not new. The solvency of the trust fund is of utmost concern to us all. Each year, the Medicare trustees undertake an examination to determine its short-term and long-term financial health. The most recent report notes that the trust fund is expected to run dry by 2002. While everyone agrees that we must take action to make sure it has adequate resources, the claim that the fund is in a sudden crisis is unfounded.

The Medicare trustees have nine times warned that the trust fund would be insolvent within seven years. On each of those occasions, the sitting president and members of Congress from both political parties took appropriate action to strengthen the fund.

Far from being a sudden crisis, the situation has improved over the past few years. When President Clinton took office in 1993, the Medicare trustees predicted the fund would be exhausted in six years. The president offered a package of reforms to push back that date by three years and the Democrats in Congress passed the plan. In 1994, the president proposed a health reform plan that would have strengthened the fund for an additional five years.

So what has caused some members of Congress to become concerned about the fund? Certainly not the facts in this year's Trustees Report that these members continually cite.

The report found that predictions about the solvency of the fund had improved by a year. The only thing that has really changed is the political needs of those who are hoping to use major Medicare cuts for other purposes.

President Clinton has presented a plan to extend the fund's life. Remarkably, some in Congress have said that the president has no plan to address the Medicare Trust Fund issue. But he most certainly does. Under the president's balanced budget plan, payments from the trust fund would be reduced by $89 billion over the next seven years to ensure that Medicare benefits would be covered through October 2006—11 years from now.

The congressional majority's Medicare cuts are excessive; it is not necessary to cut benefits to ensure the fund's solvency. The congressional majority says that all of its proposed $270 billion in Medicare cuts over seven years are necessary. Certainly, some of those savings would help shore up the fund, just as in the president's plan. But a substantial part of the cuts the Republicans seek—at least $100 billion—would seriously hurt senior citizens without contributing one penny to the fund. None of those savings (taken out of what is called Medicare Part B, which basically covers visits to the doctor) would go to the Part A Trust Fund (which mostly covers hospital stays). As a result, those cuts would not extend the life of the trust fund by one day.

And those Part B cuts would come out of the pockets of Medicare beneficiaries, who might have to pay an average of $1,650 per person or $3,300 per couple more over seven years in premiums alone. Total out-of-pocket costs could increase by an average of $2,825 per person or $5,650 per couple over seven years. According to a new study by the Department of Health and Human Services, these increases would effectively push at least half a million senior citizens into poverty and dramatically increase the healthcare burden on all older and disabled Americans and their families. The president's plan, by contrast, protects Medicare beneficiaries from any new cost increases.

As Medicare trustees, we are responsible for making sure that the program continues to be there for our parents and grandparents as well as for our children and grandchildren.

The president's balanced budget plan shows that we can address the short-term problems without taking thousands of dollars out of peoples' pockets; that would give us a chance to work on a long-term pan to preserve Medicare's financial health as the baby boom generation ages. By doing that, we can preserve the Medicare Trust Fund without losing the trust of older Americans.

Mr. HOKE. I think it is really remarkable that what had been a completely unpoliticized document, that is, the trustees report of April 3, 1995, when that document was actually scrutinized and read with great interest by the American people and by Members of Congress and was used on this floor to bring to the attention of the American people the very calamitous situation that Medicare finds itself in, that that, all of a sudden, the trustees—it is not the trustees, it is one Mr. Robert Rubin who has written this letter claiming that——

Ms. DELAURO. Secretary of the Treasury, Wall Street business person——

Mr. HOKE. Who has written this letter now in a very, very political way. He has decided to jump in politically because he sees that apparently the President's approach to this, which had been, frankly, very evenhanded, which had recognized that, yes, there clearly is a problem with respect to Medicare, Medicare has got to be fixed. We have got to step up to the plate and fix this problem.

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The President apparently has been more recently, in the past month, or even less, 3 or 4 weeks, he has been persuaded by Democrat leadership in the House that political points can be scored by repeating this mantra of slashing Medicare in order to pay for tax cuts for the rich. I think that that is bad politics. It certainly is bad policy, and I am not going to yield more time at this point.

Ms. DELAURO. Mr. Speaker, I thank the gentleman for the time that he did yield.

Mr. HOKE. Mr. Speaker, the gentlewoman is very welcome.

With respect to the $90 billion cuts that were actually suggested by Democrats in the Committee on Ways and Means, I do not know if those were $90 billion scored that way by the CBO or if they would have been scored higher. The fact is the cuts the President talked about of about $135 or $140 billion were scored by CBO at about $190 billion.

The truth is that every reasonable person in this body, every responsible person who has examined the situation, every responsible person in the administration, every person who is looking at it in a dispassionate and temperate way, not for political gain, not for political purposes but for the purposes of preserving, protecting and improving Medicare not just for this generation but also for the next generation, has concluded without question that we have to fix the problem.

We believe that we cannot only fix the problem, that is the impending problem of bankruptcy, but we can offer so much more to senior citizens in terms of what will be available for them under choices that they ought to have as senior citizens that are available to other people in the country as well.

Let us look at, first of all, the managed care option, because I think it is an interesting and a good option. The truth is there will be a lot of senior citizens who will be interested in it because it is going to offer them more care for less money. Let us face it, it will be less expensive for them. At the same time, in order to qualify, they would have to be part of an ''HMO'' or health maintenance organization, a managed care plan.

What does that mean? It means that you go through somebody who decides whether or not you are going to see a physician at a particular time for a particular ailment.

What I have found is that senior citizens who can sign up with an HMO that has, as one of the physician members in the HMO, if the senior citizen's physician is already in the HMO, then that HMO becomes very attractive to the senior citizen. If that senior citizen's physician is not in the HMO, then they are not particularly interested.

It is also apparent that the older the senior citizen, the less attractive any kind of change to an HMO becomes. That is why it is very, very important that senior citizens be reminded by me and by others that the first option that they have with Medicare Plus is to stay in traditional fee-for-service medicine, exactly the way that it is today. If what they opt for is to stay in the Medicare Program, the traditional fee-for-service Medicare Program as it is today, with exactly the same copayments, with exactly the same deductibles, and with exactly the same part B premium, they can do that. That is available to them. They can do that.

What is also to be available to them are a number of other choices that emulate and resemble choices that are available in the private sector to citizens in the United States today. Let us talk about this HMO, because I think it will be an option that will be attractive to some senior citizens.

The reason is that what will happen, I believe, and what can happen under the plan, and what has happened in other States already, where they have piloted this, particularly in Florida, and there are two HMO's in northeastern Ohio, Medicare HMO's, is that, at least in Florida, already you can join a Medicare HMO and you can have full prescription drug coverage. That is

not true under traditional fee-for-service Medicare. But it is true under Medicare HMO's that are being run in Florida right now.

I think it will probably be even more true in the rest of the country when there is a lot more competition. Because if there are 8 or 10 or 12 or 15 HMO's competing for Medicare senior citizens to be in their plan, what you will find is that they will find ways to do it better for less money and they will offer greater services.

But the marketplace will be working and the marketplace will work very aggressively. I think it would be reasonable to assume that there will be plans that will offer complete coverage for prescription drugs, complete coverage for eyewear, complete coverage for chiropractic, and additional coverages for maybe psychiatric or other things that are not covered fully under Medicare today.

Why will that happen? Because the marketplace will be at work, and it will be working to make the delivery of services more efficient.

I have to tell you that personally, from my own personal point of view, HMO's are not the delivery service of choice or delivery system of choice. I think they are decidedly, frankly, un-Republican, in the sense that they are top down. They are driven from the top and are bureaucratic.

I would think they would be much more attractive to my friends and colleagues on the other side of the aisle. In fact, they have been in the past, and it was a big part of what the President was talking about in terms of mandating people to get into in the 1993 health reform that was so soundly rejected by the American public.

In any event, there are HMO's that exist today. A substantial number of American citizens are covered by HMO's in the private sector, and people tend to have varying degrees of satisfaction with them, I suppose. The one that I like is the plan that is a medical savings account, a Medisave account, plus a high dollar catastrophic, high deductible catastrophic insurance policy.

I think this will be tremendously popular with some senior citizens, not all senior citizens. Remember again, this is another option that senior citizens will have. They can stay in traditional fee-for-service medicine, Medicare. They can get into a Medicare HMO, or they could opt for a medical savings account.

Let us talk about what a medical savings account does, because I think there has been a lot of talk about it but not a lot of understanding. Medical savings accounts allow you to purchase catastrophic illness insurance guarding against extraordinary costs and then deposit money into an MSA, a medical savings account, to cover the routine costs. The difference between the MSA level and the insurance policy's deductible would be certainly less than what today's seniors pay for so-called medigap policies.

I will give you an exact example of how this works so it will make more sense to you. Right now we do not really have health insurance in this country, we have more like what is prepaid health care. In other words, we pay on a monthly basis to cover a whole slew of things that we know will go wrong.

It would be as though you were paying on a monthly basis to have your brakes realigned, your oil changed regularly, and your shocks and tires rotated. We know there are certain things that we are going to experience in terms of our needs, our health care needs. But what insurance is supposed to do, real insurance is supposed to protect individuals against unaffordable losses due to unforeseen circumstance. That is what insurance is supposed to do. It is supposed to create a pool of money that allows us to share the risk, the real risk of having unforeseen things happen to us that are calamitous and that we cannot afford.

That is what insurance is supposed to do. Specifically, what it really does is it allows you to sleep at night so that you know if you have some problem you cannot get wiped out as a result of that.

Well, what the Medisave plan does is it goes back to the real theory, the underlying theory of insurance with a high deductible policy. Let us say that the first $3,000 is the amount of the deductible. It would be like if you had a car insurance policy where the first $3,000 of damages would have to come out of pocket. Instead of having to come out pocket, that first $3,000 would be in a Medisave account.

Where does the money come from? Well, let us go back to how much we are spending right now per beneficiary per year. We are spending $4,800; the Federal Treasury, through the Medicare trust fund, is spending $4,800 per beneficiary per year. That money, that $4,800 would be divided up between a medical savings account, money placed in a medical savings account, or buying a high deductible insurance policy.

The money that is in the medical savings account, plus money that the beneficiary, him or herself, could put in that account. Presumably, that would be the money that a senior citizen is now paying for medigap insurance. Most senior citizens buy medigap insurance to cover the amount that is not covered by Medicare, that money they could use in that medical savings account up to the amount of the deductible.

Now, if they use it, that is great. If they need it, that is great. It gets used up, and then after that, the insurance company takes over. If they do not, at the end of the year, who does that money belong to? Does it belong to the insurance company? No. Does it go back to the Government? No. It belongs to the senior citizen. What is the point of all this? The point of this is to give incentives to the individual who is getting the care. The point is to actually create consumer motivation on the part of the patient, the beneficiary, the Medicare beneficiary.

What does it mean? It means that that beneficiary is going to be making the same kind of cost conscious consumer decisions in the purchase of their health care that they make in every other area of their lives, whether it has to do with housing, or whether it has to do with clothing, whether it has to do with food. And they are going to become cost-conscious consumers of health care as well.

Now, a lot of people say, well, that is ridiculous; that is not the way it works. People do not make good decisions with respect to health care based on cost. I will give you a couple of examples of things that have to do with health care where people do and where it has been extraordinarily successful.

First of all, and I know that this will, Mr. Speaker, apply to many, many people who hear this, it has to do with eyewear. The fact is that eyewear is not something covered either by Medicare or, by and large, by private insurance. What have we seen in the area of eyewear where we do not have third party payers but in fact we have consumers purchasing the product? What we see is the following: You can get your eyes checked and you can have your eyes examined by any of three different people with levels of education and expertise. You can go to an optometrist, an optician, or an ophthalmologist at different levels of education and expertise and different costs. You can go to any mall in this country and actually have your eyes checked and a prescription filled the same day. So there is tremendous consumer availability.

Not only that, but we have seen the prices of glasses on an inflation-adjusted basis remain flat for the past 25, 30 years. We have seen the prices of contact lenses come down dramatically over the same period of time. So, clearly, consumer forces work in the medical area.

They also work with respect to dental services, which are largely not paid for by insurance companies. They even work in the area of pharmaceutical supplies and prescription drugs, which also are in many cases not covered by insurance. They are not covered by traditional fee-for-service Medicare, although they are covered in some Medicare HMO plans.

What does this mean? It means that you have seen the proliferation of generic drugs and of discount programs and drugs by mail, and the market has responded to bring those prices down. There are other things that push drug prices up, such as liability issues and the difficulty of getting drugs to market in this country because of FDA hurdles that are overwrought and too high. But, in any event, the point is that consumer forces can work in the health care area, and medical savings accounts will offer senior citizens the

opportunity to make choices themselves, manage their own health care, and actually become the drivers and be in the driver's seat when it comes to making health care choices. So that is another choice.

The point of this is the plan that we are going to vote on next week is going to do a number of important things. No. 1, is will take us out of the 1960's with respect to the delivery of health care to senior citizens. It will preserve the traditional fee-for-service Medicare for seniors that want it, but it will also give them a number of other choices, including managed care plans, including medical savings accounts, including some other things that I have not discussed with you that are a little bit more complex. But it will give a range of choices that will be available.

What will it do with respect to the spending? It will increase the spending from $4,800 per year to $6,700 per year. What does that mean over that period of time? It means we are going to spend twice as much on Medicare in the next 7 years than we have spent in the previous 7 years. It also means that we are going to increase the spending on an annual basis of about 6.5 percent per year. In other words, we are increasing 6.5 percent per year on average from 1995 to 2002.

What are we doing right now in the private sector? Well, in 1994, a big six accounting company report came out and said that the increase in the inflation in the health care sector is now down to about 3.1 percent in the private sector. Think about that for a second. Why has it gone down to 3.1 percent? The reason that it has gone down to 3.1 percent is that America has woken up. Individuals, families, companies, employers, they have said we are not going to allow this to continue, this kind of double-digit health care inflation. We have had it. We are going to do what is necessary to squeeze all the fat out of the delivery of health care in this country. We are going to fix the problem. That is exactly what the private sector has done.

What was it that CBO had projected the increase to be at which gives the Democrats, my friends on the other side of the aisle, the ability to claim this $270 billion cut, which does not exist, of course? Well, what was the projection by CBO? They projected we would be increasing at 10.5 percent per year over the next 7 years.

We are saying we are going to increase at 6.5 percent per year. But either way, what has made it possible? Why is it that we have gone up at 10.5 percent per year in the public sector, with government funding of health care, but we are now only going up at 3.1 percent in the private sector? The fact is that it goes up at 10.5 percent per year because it can, because we have allowed it to, because we have said that is what the amount is going to be. We have made it an entitlement, and nature abhors a vacuum. so the amount of spending will certainly fill the amount that is appropriated. It is absolutely guaranteed that will happen.

My own prediction about what will happen with respect to the Medicare reforms is that we will not need the 6.5-percent increase. We will not use that much money because these other factors will come into play and will actually use market forces to squeeze out the waste, fraud, and abuse, to squeeze out the fat, to squeeze out and bring about market competitive forces into play.

So that is what we will be dealing with next week on the floor. I think, Mr. Speaker, the American people deserve to know the facts about this and that, the more that they learn about Medicare, the more that they see exactly what choices will be available to them, the expansion of the choices, the more that they will absolutely and utterly reject the scare mongering, what the Washington Post called medagoguery that has been taking place on the other side of the aisle. And I think it is to the discredit of the President of the United States that, while he had, up until the past 2 or 3 weeks, been, very frankly, evenhanded and accurate in his rhetoric about the problems with Medicare and the need to fix those problems, he has now dived into the same muck bucket that my friends on the other side of the aisle have been engaged in all year by making this a political issue and politicizing it rather than making it a policy issue that deserve everybody's attention and that they should join us to try to come up with solutions that will be real.

This letter that Bob Rubin, the Secretary of the Treasury, has decided to send now, which is blatantly political, that letter is clearly an example of this decision that was probably made in consultation with pollsters, handlers, and political consultants to go political on the course instead of to talk about it in a dispassionate, rational way so that this program that is so important to American senior citizens could be preserved. Instead, what you get now is a great deal of scare mongering and the attempt to create anxiety on the part of senior citizens.

I know that, Mr. Speaker, they are not going to believe it. I know that they know that we have parents who are on Medicare ourselves and that we feel the responsibility that responsible legislators everywhere in this country feel, and that is to do what is right to preserve this program that has been a great success for the American people.

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

REPUBLICANS RUSHING MEDICARE REFORM LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I probably will not use all the hour, but I will ask for at least that initially.

I wanted to come because of the developments that have occurred in the last few weeks particularly this week with regard to Medicare and the Republican leadership proposal to change Medicare.

I happen to be a member of the House Committee on Commerce. The Committee on Commerce spent this past Monday and Tuesday doing a markup of the Medicare bill and did report the bill out on Tuesday late in the evening. I am very concerned about that bill. I understand it may be coming to the floor sometime next week, perhaps as early as next Thursday.

I think it is a terrible thing that this legislation is coming to the floor of the House of Representatives without ample opportunity for hearings and sufficient debate.

As I have mentioned before on the floor of this House, Mr. Speaker, our Committee on Commerce did not have hearings on the legislation. In fact, a substitute bill, which was actually the bill that we voted on just this past week, we only received about 24 hours before the time we were actually asked in committee to mark up the bill. So what, in effect, the Republican majority is doing is rushing Congress into these Medicare changes without most of us even knowing what the changes are and what the implications are going to be on America's seniors.

Just to illustrate that point, I wanted to start out, Mr. Speaker, by entering into the RECORD, ands I think part of it may already be in the RECORD, but I wanted to mention some highlights of an editorial that was in my hometown newspaper, the Asbury Park Press, on Tuesday, October 10. And if I could just highlight some of the statements that were made in the editorial, it is captioned ''Explain The Changes'':

Congress should not be rushing on Medicare. The editorial starts out by saying that congressional Republicans are moving too fast on reforming Medicare, the Federal health insurance program for the elderly. They propose to squeeze $270 billion from Medicare spending over the next 7 years, about a 14-percent reduction. And, as they did in their first 100 days, the Republicans plan to speed up the voting on their Medicare spending bills without taking much time for floor debate.

Given their importance, the revolutionary changes the Republicans propose are worth at least as much time and attention as they have given to, say, the Whitewater affair. As it stands, two House committees plan to complete action on the Medicare changes by tomorrow night. That was earlier this week, just 2 days after revised versions of the bill were distributed to committee members. And again, that is exactly what we did.

Under one major GOP proposal to save money, senior citizens would be

given incentives to switch to managed care plans instead of the traditional and more expensive fee-for-service. Yet Congress so far has given short shrift to some of the reservations expressed by seniors and others about managed care.

Polls indicate that most senior citizens as well as other Americans fear that congressional Republicans seeking not only to slow the growth of Medicare spending but also to wring enough savings for a tax cut that would benefit mostly the wealthy.

Finally, the editorial says that it is difficult to determine just how the Republicans arrived at their numbers because too few details have been released. That is not information the Republicans should shield the public from. The debate should be open, robust and based on a complete understanding of the facts. Anything else invites misperceptions and misinterpretations.

I think what we are seeing in this editorial is that more and more the media around the country, the newspapers, are coming to the realization that these Medicare reforms by Speaker GINGRICH and the Republican majority are being moved too fast without adequate opportunity for debate, without anyone really knowing exactly what the changes are going to mean other than the fact that we know that the savings are going to be used for a tax cut, which, once again, goes mostly to wealthy Americans.

Now, one of the things that I was most upset about this week, and I know it has received a lot of attention in the media, but I want to mention it myself because I was there, and that is on the second day of our hearings earlier this week, there were senior citizens representatives. I did not know where they were from, but they turned out to be people from the National Council of Senior Citizens, who came to our Committee on Commerce room. Some of them were very elderly. Some were as old as 90, and wanted an opportunity to address the committee. They basically were told that that opportunity would not be presented and, after they tried to speak, they were arrested.

They were handcuffed and they were basically led out of the Rayburn Office Building into a paddy wagon where they were taken down by the Capitol Police, potentially to be booked, although I understand later that they were released and not charged with any kind of trespass.

Mr. Speaker, I subsequently got a couple of pictures of these senior citizens. Just to give you an idea of the situation, I would just like to point them out here. This is the woman who initially tried to speak and basically was told that she could not. You can see there where she is being taken away, essentially. Then afterward, out in the corridor, there were additional senior citizens, as I said, who were actually handcuffed and taken away.

□ 1330

I do not want to get into all the details of this, but it was very upsetting to me, because I think it would not have happened if the opportunity had presented itself for seniors and their representatives to actually have addressed the House Committee on Commerce, and the fact that they were not given that opportunity is the reason why so many of them were upset and why we had this very unfortunate incident. I only point it out again because I think it is important, and it is not just individual seniors. It is also the newspapers, including my own in my own area, the part of New Jersey that I represent, who have expressed outrage and astonishment over the fact that there has not been an opportunity for seniors and other Americans to make their case about these Medicare changes that are so important to the country.

The previous speaker, the person who spoke before me, suggested, and I know this has been a basic tenet of the Republican leadership that somehow Medicare is broke; it faces bankruptcy if we do not do something about it that that is significant, we are going to be faced with a situation where it will not exist any more. Nothing could be further from the truth with a lot of statements made by the previous speaker about the trustees' report and how the trustees have predicted insolvency in 7 years.

One of the things I want to point out in response to that is that every year the Medicare trustees issue a report, and they predict how many years it will be before the fund that finances Medicare will be insolvent, and if you look at it, there are great variations over the years. Starting in 1970, I have a chart here where if trustees predicted insolvency in 2 years, in 1971, again, in 2 years, in 1972 in 4 years, most recently in 1995, the report that the gentleman, my previous speaker mentioned, 7 years, in 1994 it was 7, in 1993 it was 6, and it goes on and on. The point of the matter is that a tremendous amount of attention has been focused by the Republic leadership on these trustees' reports, but they fail to mention that many times over the last 30 years or so or the last 25 years, that these reports have come out that indicated a certain number of years in the future when this program would possibly be insolvent.

It has really been an issue before except that Congress periodically steps in and tries to correct the situation. The bottom line is this is nothing new. This is not an emergency situation that requires the level of cuts and the level of changes that the Republican leadership is basically suggesting.

Mention was also made of Secretary Rubin, the Secretary of the Treasury Rubin letter of September 21 to the Speaker and to Senator DOLE wherein he points out, and I will quote that:

No Member of Congress should vote for $270 billion in Medicare cuts, believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

So basically not only Secretary Rubin but other trustees I could cite have specifically said that the Republican proposal to cut this huge amount of money out of Medicare, $270 billion, 14 percent, is not the answer to the trustees' concerns and, in fact, by cutting the program by that amount of money, all you are really doing is making the situation even worse for the Medicare Program and for those who benefit from it.

I also wanted to address the fact, and I was very concerned when the previous speaker mentioned Medicare savings accounts as somehow being the answer to all of our problems. My concern with these so-called Medicare savings accounts, which is one of the new ideas that the Republican leadership have come up with in this Medicare plan, is that what it is going to do is make the situation even more serious in terms of the amount of money that is available to the Medicare Program, in other words, aggravate the situation so that even less money is available in the program. What we know now is that 90 percent of Medicare beneficiaries basically cost the Government about $1,000 a year, in other words, most, the overwhelming 90 percent of seniors who receive Medicare basically do not take advantage of much health care activity, if you will, over the course of the year, because they are not sick and they only cost the Government, the Medicare Program, about $1,000 a year. So if all of these, or a significant number of these well seniors who do not need a lot of medical attention end up getting Medicare savings accounts and the Government has to contribute something like $4,000 a year to these Medicare savings accounts, the Government is basically going to be losing money, because it would normally cost them only about $1,000 a year to maintain the health of those seniors, and now the Government is transferring all of these additional funds to these Medicare savings accounts.

It is nice, I mean, I am not going to be critical of the fact that some of the seniors may actually end up having some more money as a result of this, but in a situation where the Republican leadership is talking about the insolvency or suggesting that Medicare is insolvent and how we have to cut $270 billion out of the program, why in the world are we trying to, in effect, inflate the program by costing the Government as much as $3,000 more per person if the majority of the people who go into Medicare savings account are people who are fairly well? And those are the people that are likely to do it, because if you think that your health is not that great, you are not going to want to risk going into the Medicare savings account where you might have to shell out a lot of money.

So we know that these Medicare savings accounts are going to cost the Government a lot of money, and I think it is fiscally irresponsible to rob the Medicare Program of billions of dollars by setting up these savings accounts when theoretically your reason for Medicare reform is to try to save the Medicare Program some Federal dollars.

I think that what we really have here, I know what we really have here, and it is documented well based on the statements that were made in the Committee on Commerce when we marked up the Republican Medicare bill this week. What we really have here is an effort to try to come up with some money by squeezing Medicare to pay for a tax cut, and I know that my Republican colleagues deny this is the case, but if you look at the way this program is set up, the way this bill has come out of committee, there is no question in my mind that that in fact is what is going on. Now, let me explain why I say that. Of the $270 billion that is proposed for reduction in Medicare by the Republicans, nearly half of that money would not even go to shoring up the Medicare hospital trust fund, known as Medicare part A, which the Republican leaders claim faces insolvency. This part A, the hospital trust fund, is what is discussed in the trustees' report, not part B, which is the separate program that seniors pay into which goes to pay for their doctor bills, and basically part A is where if we have extra money, if we ever have the money, we should be trying to put it in order to shore up the plan.

We estimate that about $90 billion would be needed to shore up, if you will, and to avoid that potential insolvency 7 years from now in part A. So if you took about $270 billion, compared to the $90 billion that the trustees really need, you can see that the difference is essentially what would be used for the tax cut.

What they are doing with part B, instead of, in order to guarantee that there is a lot more money available there that could be used for a tax cut is increasing premiums. We have heard over and over again on the floor of this House that the part B premium will go from about $46 a month that the seniors pay right now to over $90 a month by the year 2002, in a sense doubling, and the problem is that this part B, the money that goes into part B, including all that additional money that is going to come from the increased or doubling of the premiums, the seniors would pay under the Republican plan, that comes out of the same fund or goes into the same fund as it used for the $245 billion in tax cuts that has been proposed by the Republican leadership. Since any changes to part B do not impact the insolvency of part A, again they are separate funds, it is highly likely that the part B cuts could be used for tax cuts, again which I said much of which goes to the wealthiest Americans.

In an effort to try to make sure that was not the case, in other words, that whatever cuts came to this Medicare Program under the Republican bill would not be used for tax cuts, we, the Democrats on the Committee on Commerce, tried a number of amendments earlier this week, because our point was, well, if you on the other side are saying that you are not going to use this for tax cuts, well then, fine, you know, go along with some of the amendments that will make that perfectly clear that this money that is being cut from Medicare is not going to be used for tax cuts, and so we came up with a few amendments. I actually proposed the first amendment, which was basically to say that since part B is not insolvent, since part B, which is generated through these premiums as well as general revenues, is not a program that faces potential insolvency or bankruptcy, why do we need to deal with part B at all? So the amendment that I proposed basically struck part B from the Medicare bill, the idea being that we would only deal with part A, since that is where the potential problem is. Well, that amendment was, of course, defeated. I would maintain the reason it was defeated is primarily because the fact of the matter is the Republican leadership intends to use this money for tax cuts.

But then in the Committee on Commerce, the gentleman from California [Mr. WAXMAN] offered another amendment after mine that basically I called directed scorekeeping. It is sort of a technical term. But what it means is that if the money is saved in Medicare and it is put aside under the budget rules, a tax cut can be implemented, because he knows that that money for Medicare from the cuts in Medicare has been set aside and is sitting there as part of the Federal budget. In other words, the idea is that since the money is there, you can score against it or charge against it to implement a tax cut, and so the gentleman from California [Mr. WAXMAN] had an amendment that basically said that the Director of the Congressional Budget Office shall not include estimates of net reduction in outlays under the Medicare Program for fiscal years 1996 through 2002, the 7 years, to the extent that such net reductions exceed $89 billion. So what he was saying is that you can score $89 billion of that $279 billion for the savings to shore up the part A hospital trust fund, but you cannot score any more of it that could possibly be used for a tax cut, and again that amendment was defeated. I think that the defeat of the amendment offered by the gentleman from California [Mr. WAXMAN] showed definitively that what the Republican leadership has in mind is to use this money for a tax cut, because if they did not have that intention, they would not have found it necessary to use that money for scoring for budget purposes.

Now, what is it, what is this Republican Medicare? What are these Medicare changes essentially going to do? We know they are trying to save $270 billion or cut $270 billion. I believe very strongly that is going to be used for a tax cut.

How are they going to do it? In other words, what is actually going to happen to the Medicare Program, and how is that going to translate into the type of health care, quality of health care that seniors will actually get if that level of cuts is implemented? Basically what the Republicans are doing is they are limiting Medicare spending to specific dollar amounts in the law. It is what we call caps. In other words, they are saying that only so much money can be spent on Medicare, and that is it. It is capped. The problem though is that if you look at these caps and the level of spending that is going to be allowed with all the cuts is that they do not bear any relationship to the actual cost of health care.

All of us would like to save money. Frankly it would be wonderful if we could save billions of dollars in the Medicare Program, and we can to some extent. But if you put artificial caps on the amount of spending that is available because you want to use that other money for a tax cut, well, the problem is if they have no relation to the actual costs of health care, what you are doing is squeezing the Medicare system. You are making it so that traditional care and the quality of care that hospitals and physicians give you they can no longer give you, because the money is not there to pay for it.

What I think that the most important or the most significant aspect of this initially is that a lot of seniors are going to lose their choice of doctors. In other words, the Republicans feel very strongly that if they put a lot of seniors, if they force a lot of seniors in effect into what we call HMO's or managed care where they do not have a choice of doctors, the Republicans believe that that will then accomplish a lot of savings, and they will save a lot of money, because they feel that the HMO's or managed care ultimately will save money.

I would argue that the jury is definitely out on whether or not HMO's or managed care actually save dollars in the long run, but clearly what the Republican leadership is doing here in coercing seniors into HMO's or managed care. I know that the previous speaker said that, you know, seniors are going to continue to have choices if they want to stay in a traditional fee-for-service plan where they have their choice of doctor; they go to the doctor that they have been seeing for years, and he just gets reimbursed. They can continue to do that; they do not have to necessarily sign up for an HMO. But there are some very cute budgetary gimmicks in this Republican Medicare proposal that are going to make it increasingly difficult for you to stay in a traditional fee-for-service plan where you have your own doctor, and the reason for that, there are many reasons,

but one of the key reasons is because the cuts impact much greater on the traditional fee-for-service plan than they do on HMO's or managed care. This is in the bill that came out of the Committee on Commerce, what we call a fail-safe that says that after a few years if savings are not achieved in this sufficiently to reach that goal of $270 billion—through the changes that we have suggested in Medicare, if we find after a couple of years that we are not saving that level of money, we are not likely to save that level of money over the seven years—then a fail-safe comes into play that cuts back on the reimbursement rate that doctors and hospitals and other health care providers get from Medicare. But the fail-safe, the cutbacks at that point, do not come on the HMO's or the managed care patients or systems but strictly on the fee-for-service side. So in essence what is happening is after a couple of years the squeeze, if you will, the amount of money that goes into the traditional fee-for-service plan where you can choose your own doctor and get reimbursed, the squeeze is solely on the people that remain in those traditional fee-for-service plans. So what it is going to mean is less and less money is going to go to doctors or hospitals that are in the traditional fee-for-service plan and you will find increasingly that you cannot find a doctor through a traditional fee-for-service plan, and you have to go to an HMO if you want to get any kind of attention.

It is very unfortunate, but it is a rather cynical way, if you will, of eventually abolishing or making it impossible for seniors to stay in the traditional fee-for-service system.

I wanted to just talk a little bit more about some of the amendments that Democrats proposed in the Committee on Commerce to try to improve on this terrible proposal that the Republican leadership has put forward on Medicare. I think a lot of us recognize that even though we thought the overall plan was terrible that if there was some way we could amendment it in committee to lessen some of the worst aspects of it, at least we would have accomplished something. But every one of these amendments, every one of these attempts on our part to try to correct the bill or make it a little less onerous failed. Some of these amendments though, or corrections if you will, do point out how sinister this plan is in various ways. I just want to talk about a few of them. I do not want to talk about too many of them, because we could stay here all day, and I do not want to take up that much time.

The gentleman from Massachusetts [Mr. MARKEY] offered an amendment basically that would have decreased the part B premiums and taking the law back, the Medicare law back to what it is today. A lot of people, a lot of the Republicans have come on this floor and they have said, well look, why are you Democrats talking about doubling the part B premiums, the premiums that you pay for doctors, when in reality the part B premiums would be going up anyway over the next few years? Well, the fact of the matter is under the current law the part B premiums do go up. It is now about $46 a month, and under current law by the year 2002, 7 years from now, the premiums would go up to about $60 a month. But I would point out that that $60 a month under current law, assuming current inflation, is significantly less than what Speaker GINGRICH has proposed. Speaker GINGRICH'S proposal and the bill that came out of committee would double the premiums. They'd probably be at least $90 per month as opposed to the $60 that exists under the current law.

The reason for that is very simple. Under the current law, the percentage that senors pay actually goes down in the next few years, because it was understood that it is very, very difficult for a lot of seniors who live on fixed incomes to pay very high premiums, and so if we do not change the law you will see the actual percentage seniors have to pay out of pocket for part B go down, and that even with inflation, although there will be some increase in your part B premiums, it will not be anywhere near as great as what Speaker GINGRICH has proposed.

That amendment, of course, by the gentleman from Massachusetts [Mr. MARKEY] to try to strike those drastic increases in the part B premiums also failed because of Republican opposition.

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The other thing I think is particularly sad, when you talk about the part B premiums, and, again, something we tried to change in committee unsuccessfully, is that under current law Medicaid pays the total cost of the part B premium for seniors who fall below a certain income, who are low-income seniors.

Well, the Medicare bill and the Medicaid bill that we passed out of the Committee on Commerce a week earlier has eliminated the requirement for the Federal Government to pay the part B premiums, the $40-some odd a month for those low-income seniors. And there are millions of them.

What we did in committee this week is we tried to incorporate into Medicare, into this Republican Medicare bill, a requirement that that premium for the low-income seniors would be paid under Medicare. Again, that amendment was defeated.

I think some of my colleagues on the other side have suggested that, well, that is OK, because these low-income seniors can all go into an HMO and the HMO will take care of their physicians' bills, so they do not need part B anymore.

That is a false assumption. First of all, there is absolutely nothing in this Republican Medicare legislation that guarantees anyone that they are going to have an HMO in their area that will pay for physicians' bills that is available to them at a decent cost. So I think what you are going to see is a lot of low-income seniors, or even middle-income seniors, will simply not be able to pay for their part B premiums, and the consequence of that is they simply go without part B and they do not have health insurance that pays for their doctors' bills.

The other thing we tried in committee that I was very supportive of is if you have this terrible Republican bill that basically forces a lot of seniors into HMO's or managed care where they do not have a choice of doctor, at least change the law when we pass this bill, let us put into the bill what we call a point of service provision, that says that if you are in an HMO or managed care system, and all of a sudden you need to go to a specialist or a doctor that is not part of the system, that is not on the list, so-to-speak, that at least you can opt out of the system and go to that other doctor, even if it means you have to pay a little more out-of-pocket in order to see the doctor that is not part of the HMO.

I am not saying that is a great alternative, because you have to shell out more money out of your pocket. But at least the option would exist under point of service, as we call it, so that if you were forced into the HMO or managed care, but you wanted to go see a doctor not in the system in a particular circumstance, if you could afford a little extra copayment, you could operate to do that.

Again, that point of service provision was defeated. It was actually an amendment that was offered by a Republican member of the committee, the gentleman from Iowa [Mr. GANSKE], who is a physician, but we did not have sufficient votes on the Republican side in order to guarantee that the point of service option would be available.

One of the most sinister things in this Republican Medicare bill the way it came out of committee, again, is that there has been an effort to try to change the current law that limits the amount of money that seniors have to pay a physician out-of-pocket. In other words, under current law if you are under Medicare and if you are covered by Medicare and you see a physician, they can only charge you a certain percentage increase for a copayment. But in this bill that came out of our committee that is going to be voted on the floor of this House probably next week, those provisions were changed in certain circumstances.

If you decide to join that we call a hospital network, or doctors network system, in other words, if you decide to join a managed care system which is put together by a hospital or by a certain group of doctors, rather than the ones that are advertised on TV, the large ones, the large HMO's, managed care systems, then they allow what is called balanced billing in those systems, where the doctors can charge you

basically whatever they want for a copayment.

This is the first time under Medicare in my memory that any exemption has existed from the limitation on what the doctors can charge for a copayment. And what I would say is happening here, and the reason this is happening, is very simple: So much money is being squeezed out of the Medicare system, so much money for health care needs is being squeezed by these cuts in Medicare, that the recognition is out there on behalf of the Republican leadership that they need to provide a situation where seniors can be charged a lot more by their physicians in order to provide quality care. So they are building this exemption, knowing full well that some seniors may want to get into a better quality system through a hospital or doctor network in their area that is going to provide the quality physicians, that is going to provide the quality care, but the only way to pay for it is by charging the seniors more out-of-pocket so the physicians can charge whatever they want.

I think it is a terrible recognition of the fact that there is not going to be enough money in this Medicare system the way the Republicans have put their bill together to provide for quality care. That is just a beginning, I think, of what you are going to see, where more and more money has to be paid out of pocket by senior citizen in order to guarantee them quality care.

I had a little chart, which I do not actually have in front of me, but to give you an idea I will read from it, that gives the percent of income spent on out-of-pocket costs by adults 65 and older in 1994. Of the total elderly population, 21 percent of their income is basically spent for out-of-pocket health care costs. If you look at senior citizens who are below poverty, that shoots up to 34 percent. Low-income seniors, 34 percent of their income was actually spent on out-of-pocket costs for health care.

So already we are in a situation where a lot of senior citizens spend a significant amount of their money out-of-pocket to make up for deductibles, copayments, and other health care necessities. And with this bill, you are going to see even more of that occurring, particularly when it comes to the balanced billing provisions.

I just wanted to mention a couple more things, because I think they are particularly egregious, and these again were things that the Democrats tried to change in the bill, in the Medicare bill in the Committee on Commerce, but, again, we were unsuccessful.

The Republican leadership, and particularly the Speaker, have made such an issue over the fact that there is a tremendous amount of fraud and abuse in the Medicare Program under current law, and that is certainly true. Estimates are that something like 10 percent or perhaps more of the money in the Medicare Program is wasted, either because of fraud or abuse or just general waste. All of us, I think, on both sides of the aisle, Republican and Democrat, would like to see certain things done to correct that. And we were hoping that any kind of Medicare reform legislation that came out of the Committee on Commerce as a result of this Medicare debate would seriously try to address the fraud and abuse problems.

The sad thing is this bill that was reported out of committee actually makes it more difficult for the Federal Government to go after those who are committing fraud and to weed out the abuse in the system.

I think it is a particularly sad commentary on the fact that here was an opportunity, particularly in a climate where we are trying to save money and we know there is a tremendous amount of money that could be saved, to make it more difficult for the Government to go after fraud and abuse.

If I could just read from some of the statements that were made by the inspector general of the Department of Health and Human Services about the bill and why it would make it more difficult for the Government to go after those who are defrauding the system.

Over the course of 7 years, the 7 years we are talking about here, it is estimated that $126 billion could be saved by reducing fraud and abuse. But the GOP bill actually makes the existing civil monetary penalties and antikickback laws considerably more lenient. According to the inspector general, the Medicare restructuring legislation:

> Would substantially increase the government's burden of proof in cases under the Medicare-Medicaid antikickback statute. Although a fund would be created to direct moneys recovered from wrongdoers, this fund would not go to further law enforcement efforts.

What the inspector general said is that the one way that we can significantly crack down on fraud and abuse is if there are more enforcers out there. This bill actually makes it more difficult for enforcement to take place, because, on the one hand, it increases the standard of proof of the Government in going after those who are taking advantage of the Medicare system, and that whatever money is recovered does not go to hire more people to do law enforcement. So actually there ends up being less people out there who are going after the abusers.

I just think that is a particularly egregious situation, because so much has been played about the need to deal with the fraud and abuse problem.

I would like to conclude in just a couple more minutes by saying that although I talked about Medicare today, and that is what we are going to be voting on next week, the problem of what seniors are going to face with Medicare because they are going to have to pay so much more money out of pocket is aggravated because of what is happening on other fronts with regard to senior citizen concerns.

A couple weeks ago in the Committee on Commerce we reported out a Medicaid bill which, and, again, the Republican leadership is trying to cut about $180 billion in the Medicaid program in order to pay for their tax cuts. If you combine the cuts in Medicaid, $180 billion, with the cuts in Medicare, $270 billion, you see a tremendous amount of money is going toward cuts that primarily impact the elderly, because 70 percent or so of the money that is spent on Medicaid, which is the program for the poor, health care for the poor, still goes to pay for senior citizens, most of whom are in nursing homes.

So what we are going to see is that senior citizens are going to have to pay more out of pocket for Medicare, they or their families are going to have to pay more out of pocket because of the cuts in Medicaid.

Then looking on the horizon, and it had a lot of attention in the media today, is the proposed cut in the COLA for Social Security. I mention that again, first of all, because I am opposed to the cuts in the COLA that are being presented; but even more important because, think, about the senior citizen.

Let me give you an example, let's say a senior citizen of low income, who now is being told that your Medicare part B premium is going to go up, it is going to be doubled over the next 7 years; that the supplement, the Medicaid provision that pays for part of your Medicare part B is possibly going to be eliminated; and then you are not going to get the COLA that you expect to take into consideration inflation over the next few years.

Well, if you think of that combination, less of a COLA, more out of pocket for Medicare, and loss of any kind of supplement for Medicaid, you are talking about senior citizens that are getting a double, triple, or even more possibly with cutbacks in other programs like nutrition or outpatient care, a double, triple, quadruple whammy.

The thing that is amazing to me is how so many of our colleagues on the other side just refuse to recognize how the combination of all these cuts and increased out-of-pocket expenditures and less of a COLA are going to have such a devastating impact on people who have fixed incomes.

I have to say, and I am not just talking in an insider's sense here, when I go home on weekends, when I am in the district, when I am in New Jersey, seniors come up to me on the street, they come up to me in my district offices, and they explain how they have budgeted down to the last penny or the last dollar, and they simply cannot afford the types of increases that we are going to see here. These increases are not necessary.

If we eliminated or even cut back significantly on the tax cut, particularly those provisions that are going to the wealthy, then we would not have to make these kinds of cuts and cause

these out-of-pocket expenditures to occur.

So, again, this is a needless effort on the part of the Republican leadership. I think it is a shame. I hope that more and more Americans will see the light on these terrible changes that are being proposed.

TRAVEL AND TOURISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I thank the Speaker for granting me this time, and I want the Speaker to know I am speaking about a subject that of much interest to him and to myself, and I think just about every Member I would think in this body. Because, Mr. Speaker, today I want to talk just a few minutes about travel and tourism.

Travel and tourism has a great story to tell in America. It is not always told. Let me say, Mr. Speaker, that from our largest cities to our smallest towns, along superhighways and the back roads of America, no other industry spreads economic development as widely as travel and tourism. It is obvious how tourism impacts the districts of New York or Los Angeles or Miami, but many of the people in Congress represent a much different segment of America, and they ask, how does tourism affect me in my district?

So let me say that whether it is a large district, a strong economic district; whether it is a small town, whether it is rural America; whether it is a State without a coastline, does tourism affect you? You bet it does. Every town with a gas station, a motel, or a diner, is impacted by tourism.

In these areas, tourism is a catalyst for community development. It spurs new businesses, encourages park and historic site restoration, and stimulates community growth. Tourism funnels millions of dollars and thousands of jobs into every State, every congressional district, in America. In fact, the travel and tourism industry puts food on the tables, pays for the bills, and provides solid careers for people in every congressional district of America.

Across this Nation, tourism supports the lives of 13 million working Americans. It is the Nation's second largest employer. That is right, travel and tourism is the country's second largest employer. This is the industry of the future. By the year 2005, in 10 years, executive and administrative positions alone, within this industry, will outnumber the total employment of all but two manufacturing industries.

Not only does travel and tourism create millions of jobs, but it generates billions of dollars in revenue. Just listen to this: In 1994, last year, travel and tourism generated $417 billion in sales. That is right, $417 billion in sales as well as $58 billion in tax revenues for our country.

But there is more to the tourism story than just jobs and dollars. Tourism is also about community revitalization and helping the American family. Our communities desperately need tourist dollars to resurface roads, to build new highways, to restore parks and recreation areas, and improve our schools. In fact, without these revenues each American household would have to pay an additional $652 a year in taxes. So wherever you are in America, what is travel and tourism doing for you? It is shaving your tax bill by $652. Tourism dollars prevent higher taxes in America. Tourism means jobs. Tourism is leading this country into the 21st century for economic development and jobs.

Increasing export trade means that in 1993, the travel and tourist industry trade surplus reached an all-time high of over $22 billion.

This year, we are going to have the largest trade deficit. It is going to be close to $200 billion. Last year it was $166 billion. But do you know what is keeping at least part of this trade deficit in line? Is what we are doing with tourism. Because when the tourist comes to America and buys a dollar's worth of goods or services, it is the same as if we sold that goods or service overseas.

On October 30 and 31 we are going to have some 1,700 industry professionals here in Washington for the White House Conference on Travel and Tourism. It is the first time we have really had a conference like this. And when you see what is happening in travel and tourism around America, the developments of travel and tourism globally in the 21st century, this is truly preparing our children and our country for a huge economic development.

So I am asking Members of the House to join in our Travel and Tourist Caucus. We now have 286 Members. The Travel and Tourist Caucus is the largest caucus in Congress. I am asking Members to join up before October 30 and 31, so that when we have the people from this huge industry come to Washington, we can tell them what they can do with us for the future of America.

I am also asking Members of this body to look at H.R. 1083, the Travel and Tourism Relief Act, what it can do economically for our country, for every district, for the jobs in America. I am asking Members to do those three things: First, become active in the travel and tourist conference; second, to look at this legislation; and, third, to fight to preserve and to build better jobs.

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. SKAGGS) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. BONIOR, for 5 minutes, today.

(The following Members (at the request of Mr. WELDON of Florida) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. BONIOR.

Mr. TOWNS.

Ms. DELAURO.

ADJOURNMENT

Mr. ROTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 17, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1529. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President intends to exercise his authority under section 610(a) of the Foreign Assistance Act in order to authorize the furnishing of $2.8 million to El Salvador, pursuant to 22 U.S.C. 2411; to the Committee on International Relations.

1530. A message from the President of the United States, transmitting notification for DOD to make purchases and purchase commitments, and to enter into cost sharing arrangements for equipment to develop manufacturing processes under the Defense Production Act of 1950, as amended, pursuant to 50 U.S.C. App. 2093(a)(6)(A) (H. Doc. No. 104–124); jointly, to the Committees on Appropriations and Banking and Financial Services, and 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. QUINN:

H.R. 2480. A bill to establish an Office of Inspector General for the Medicare and Medicaid Programs; to the Committee on Government Reform and Oversight, and in addition to the Committees on Ways and Means, and Commerce, 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. SEASTRAND (for herself, Mr. GILCHREST, Mr. COX, Ms. DUNN of

Washington, Mr. DAVIS, Mr. SAXTON, Mr. CUNNINGHAM, Mr. OXLEY, Mr. DORNAN, Mr. HOKE, Mr. TIAHRT, Mr. BARTON of Texas, Mr. WALKER, Mr. BAKER of California, Mr. LEWIS of California, Mr. ROHRABACHER, Mrs. KELLY, Mr. KIM, Mr. HALL of Texas, Mr. LIVINGSTON, Mr. TAYLOR of North Carolina, Mr. MCKEON, Mr. BILBRAY, Mr. KING, Mr. HERGER, Mr. CALVERT, Mr. BARRETT of Nebraska, Mr. YOUNG of Alaska, Mr. LAUGHLIN, Mr. KNOLLENBERG, Mr. MOORHEAD, Mr. HASTERT, Mr. COOLEY, Mr. RADANOVICH, Mrs. CHENOWETH, Mrs. CUBIN, Mr. DOOLITTLE, Mr. HUNTER, Mr. HORN, and Mr. RIGGS):

H.R. 2481. A bill to designate the Federal Triangle project under construction at 14th Street and Pennsylvania Avenue, NW, in the District of Columbia, as the ''Ronald Reagan Building and International Trade Center''; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 2482. A bill to require States to consider adopting mandatory, comprehensive, statewide one-call notification systems to protect underground facilities from being damaged by any excavations, and for other purposes; to the Committee on Commerce.

By Mr. HOKE:

H. Con. Res. 107. Concurrent resolution urging a home field advantage in the major league baseball league championship series; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 540: Mr. HOUGHTON.

H.R. 864: Mr. BARR.

H.R. 1575: Mr. COX, Mr. DAVIS, Mr. DUNCAN, Mrs. KELLY, Mr. LINDER, Mr. WELLER, and Mr. BARR.

H.R. 1686: Mr. COX and Mr. CHRISTENSEN.

H.R. 1715: Mr. HEINEMAN.

H.R. 1733: Ms. FURSE, Mr. SERRANO, and Mr. TATE.

H.R. 1893: Mr. SCHUMER and Mrs. KENNELLY.

H.R. 2003: Ms. WOOLSEY and Mr. HINCHEY.

H.R. 2446: Mr. HORN and Mr. POSHARD.

H.R. 2463: Ms. MCKINNEY.

H. Res. 30: Mr. BRYANT of Tennessee and Mr. FRANK of Massachusetts.

H. Res. 220: Mr. FOGLIETTA, Mrs. MALONEY, Ms. SLAUGHTER, and Mr. OWENS.

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Senate

(Legislative day of Tuesday, October 10, 1995)

The Senate met at 9:45 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:

Lord God, we thank You for the energy-releasing power of Your spirit. Life's challenges and difficulties often excavate trenches in our hearts. These can be riverbeds for the flow of discouragement or of joy. In this time of prayer we ask that Your joy overflow the banks of our hearts.

Nehemiah expressed this assurance in the arduous time of the rebuilding of the walls of Jerusalem. ''The joy of the Lord is your strength,'' he said. Only You could give the people what they needed to persist and endure. The same is true for us in our work today. We do not always find joy in our work: Sometimes it is demanding and exasperating. But we can bring Your joy to our work, a joy that lasts, a joy that bursts forth from Your love, forgiveness, and hope. Thank You for the creative thought and energy that Your divine joy triggers in our minds and our bodies.

This is the day You have made. We will rejoice and be glad in You, for Your joy is our strength. In our blessed Lord's name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, the first responsibility I have this morning is to announce for the leader what our potential points of business are for this morning.

This morning, there will be a period for the transaction of morning business until the hour of 10 a.m. Following morning business, the majority leader has stated that it would be his intention to appoint conferees to S. 652, the telecommunications bill. It is possible that a Senator will make a motion in regard to the appointment of those conferees. Therefore, it may be necessary to have a rollcall vote today if such a motion is made.

The majority leader has also indicated that it is hoped that the Senate will be able to appoint conferees to H.R. 4, the welfare reform bill, and to do that during today's session.

Mr. President, do I have time allocated for morning business?

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KEMPTHORNE). Under the previous order, the time for the two leaders is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period for morning business until 10 a.m., with Senators allowed to speak for not more than 5 minutes, with the exception of the Senator from Iowa [Mr. GRASSLEY] who is entitled to speak for 10 minutes.

The Senator from Iowa is recognized.

DRUG POLICY, DRUG LEADERSHIP

Mr. GRASSLEY. Mr. President, several weeks ago on this floor, I addressed the issue of what I regard as a serious and growing problem in this country. The problem has two major features: Disturbing indications of a new drug epidemic among the Nation's young; and a lack of leadership from the administration either to provide the necessary moral guidance at home or to sustain programs overseas.

I called upon Democrats and Republicans to join in an effort to reverse this trend. In addition, Senator COVERDELL and I worked to restore funding to our international narcotics efforts as did Senator MCCONNELL. We hope that as we go to conference with the House that we can preserve the funding for our international programs that contribute to our overall efforts to fight drug abuse. Yesterday, Senator HATCH, in an eloquent and forceful statement, joined me in summoning up the awareness and resolve that we need to address now the dangerous trends we see in teenage drug use. Something that we must do before we find ourselves deep in a new wave of addicts and ruined lives.

Two weeks ago, Senator DOLE pointed out the seriousness of the problems that we face in an insightful opinion piece. As he noted there, we have lost our focus on drug policy. As a result the voice most commonly heard on the drug issue is from those who favor legalization in one form or another. Despite the fact that the public routinely, by overwhelming majorities, opposes any such notion, the press, our cultural elite, and some of our political leaders act as if this was not the case. The most remembered voice on the Clinton administration's drug policy was the call by Joclyn Elders, the Surgeon General of the United States, for legalization. The result of a policy of replacing Just Say No with Just Say Nothing has had predictable results.

Our interdiction efforts have fallen off as the focus on law enforcement has diminished. The priorities at DEA and Customs have shifted away from international efforts. Even domestically these agencies are doing far less to combat drug trafficking, as declines in arrests and seizures indicate. The Coast Guard has seen its budget shrink

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

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for drug control, and DOD counterdrug funding has plummeted. More seriously, the administration has not fought for its own programs or supported its own drug czar in Congress. And the President has abandoned the bully pulpit—something that his own Attorney General, his Secretary of Health and Human Services, and his drug czar have called one of the most important tools in our counterdrug arsenal.

As a consequence, the message that drug use is both harmful and wrong is simply not getting to the audience that most needs it—young Americans. Marijuana use is on the rise, dramatically. Lest anyone forget, this was how the drug epidemic of the 1960's and 1970's got started. Marijuana was the gateway to an age of major drug addiction. We are seeing a repeat of that history because we failed to learn from our history. Today's marijuana, however, is many times more potent than anything from the 1960's, and we know a great deal more about the dangerous health consequences of even small use. Thus, we are not ignorant. We are, however, in danger of being negligent.

It is not as if we have learned nothing about what works. After many years of trial and error, we hit upon the mix of things that gets the job done. The first hurdle we overcame in the efforts of the late 1980's was to realize that counterdrug efforts cannot be a sometime thing. We need consistency and sustained effort.

We also learned that we needed comprehensive programs that combine effective interdiction, law enforcement, education, prevention, and treatment in well-publicized efforts. This is what it takes to send a clear message to the most at-risk population—young people between the ages of 12 and 20. When we managed to put these things together we saw significant declines in use.

Now, however, all that is at risk. We have retreated from what works. We have seen rhetoric that tries to ignore one of the most significant parts of the message about illegal drug use—that drugs are illegal because they are dangerous and wrong. Instead, the voice we hear says that drugs are dangerous because they are illegal. Or just as bad, that the only way to deal with the problem of drug abuse is through treatment. And we have seen program changes that reinforce this view. Once again, however, we can see the obvious: When you do not make it clear that drug use is not only harmful but wrong, and that use has consequences both social and judicial, then the coherence of the message is lost on our young people.

We need to revitalize our efforts. To remind ourselves of our responsibilities and of what is needful. It also involves asking ourselves what are the appropriate responses of the Federal Government. It certainly is not simply throwing money at programs.

There are a number of things the Federal Government is best able to do and most responsible for. First, there is a need to develop sound strategies that have substance rather than rhetoric as their main components. Second, Federal authorities need to focus on those things State and local authorities are less able or unable to do. This means, in particular, a major focus on interdiction, international control efforts, and law enforcement at and near the borders. These are areas that have suffered the most in recent years.

Third, we need consistent, visible leadership that ensures the level of cooperation and oversight of individual programs necessary to produce coordinated efforts. We need a drug czar whose authority is backed by a President committed to the effort.

Fourth, we need to renew our public agenda. To encourage local groups, family organizations, and private, voluntary groups in their efforts to fight drug abuse and the creeping influence of legalizers. We need a Just-Say-No czar with visibility and credibility.

Fifth, we need to revitalize our interdiction efforts at and near the borders and to recover the lost ground in recent years. We need to stop using our Federal drug law enforcement officers as deputy sheriffs in local jurisdictions. They should be focusing on the major cases that involve multiple jurisdictions. We need a recommitment to protect our borders, something even more important as we move forward with NAFTA.

Sixth, we need a major international effort to go after the major criminal organizations that are responsible for a spreading wave of criminality here and abroad.

Finally, we need congressional commitment to sustain realistic programs that have proven records. We need all of these things today.

As chairman of the Drug Caucus, I have highlighted the problems in the past. It is time for us to move ahead. In this regard, as a first step, I intend to offer a sense-of-the-Senate resolution in the coming days calling for a day of national drug awareness. This is in conjunction with Red Ribbon Week, sponsored by the National Family Partnership. I call on my colleagues and all Americans to wear a red ribbon during the period of October 23–31 in memory of a real hero in the drug war, Enriqué Camarena, a DEA agent killed fighting drug traffickers, and as a reminder of and commitment to a drug free country.

In the coming weeks I will be working with the private sector and my colleagues to bring greater focus to and effort on the drug issue. It is time. It is necessary. It is right. We need to make the whole country one big drug-free zone.

UNANIMOUS-CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, I want to make an announcement on behalf of our Republican leader.

We are asking unanimous consent that at 10:30 a.m. the Chair lay before the Senate a message from the House on S. 652, the telecommunications bill; that there be 2 hours of debate, with 1½ hours under the control of Senator DORGAN and Senator KERREY and the remaining 30 minutes under the control of Senator PRESSLER.

Further, that immediately following the debate or yielding back of time, the Senate disagree with the House amendments and the Senate agree to the House request for a conference and the Chair be authorized to appoint conferees on the part of the Senate, and that no other motion be in order during the pendency of this House message.

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

Mr. GRASSLEY. Mr. President, in light of this agreement, I have been authorized by the majority leader to announce that there will be no rollcall votes during today's session.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask that the morning business period be extended until 10:30 a.m. under the same terms and conditions as the previous morning business order.

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

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

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

SCHEDULE

Mr. DOLE. Mr. President, we will not be in session on Monday. There may be committee meetings. Some of us will be working on the tax portion of the reconciliation package. I have conferred last evening with the Democratic leader, and it is our view that it is going to be very difficult for people to be able to get to the Capitol on Monday, particularly staff. So there may be committee meetings, but we will not be in session.

I thank my colleague.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, morning business is closed.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. PRESSLER. Mr. President, I ask that the Chair lay before the Senate a

message from the House of Representatives on S. 652 a bill to provide for a procompetitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 652) entitled ''An Act to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

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

From the Committee on Commerce: Mr. Bliley, Mr. Fields of Texas, Mr. Oxley, Mr. White, Mr. Dingell, Mr. Markey, Mr. Boucher, Ms. Eshoo, and Mr. Rush: *Provided*, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of section 205 of the Senate bill.

As additional conferees, for consideration of sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Barton of Texas, Mr. Hastert, Mr. Paxon, Mr. Klug, Mr. Frisa, Mr. Stearns, Mr. Brown of Ohio, Mr. Gordon, and Mrs. Lincoln.

As additional conferees, for consideration of sections 102, 202–203, 403, 407–409, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Hastert, and Mr. Frisa.

As additional conferees, for consideration of sections 105, 206, 302, 306, 312, 501–505, and 701–702 of the Senate bill, and title III of the House amendment, and modifications committed to conference: Mr. Stearns, Mr. Paxon and Mr. Klug.

As additional conferees, for consideration of sections 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Hastert, and Mr. Klug.

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Barton, and Mr. Klug.

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705), and of the House amendment (except title I), and modifications committed to conference: Mr. Hyde, Mr. Moorhead, Mr. Goodlatte, Mr. Buyer, Mr. Flanagan, Mr. Conyers, Mrs. Schroeder, and Mr. Bryant of Texas.

As additional conferees, for consideration of sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Mr. Hyde, Mr. Moorhead, Mr. Goodlatte, Mr. Buyer, Mr. Flanagan, Mr. Gallegly, Mr. Barr, Mr. Hoke, Mr. Conyers, Mrs. Schroeder, Mr. Berman, Mr. Bryant of Texas, Mr. Scott, and Ms. Jackson-Lee.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate divided in the following manner: 90 minutes under the control of Senators DORGAN and KERREY of Nebraska, 30 minutes under the control of Senator PRESSLER.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. If the Senate should agree later today, I believe that the Chair will be appointing the following conferees to the telecommunications bill. If the Chair so appoints and if there is not objection, Senators PRESSLER, STEVENS, MCCAIN, BURNS, GORTON, LOTT, HOLLINGS, INOUYE, FORD, EXON, and ROCKEFELLER will be named as conferees.

Mr. President, let me summarize for the Senate where we stand on the telecommunications bill.

The House and Senate have both passed major bills reforming the Telecommunications Act of 1934, bringing it up to date, and also making certain changes in our Nation's telecommunications laws. In addition, there are efforts to make it more procompetitive and deregulatory but also to protect the rights of the consumers in our country and to move the telecommunications bill forward.

We are in a situation today that our Nation very much needs to modernize its telecommunications laws. A House-Senate conference will soon begin to iron out the differences between the Senate and the House versions of telecommunications. We are doing this on a bipartisan basis, and I hope that it will proceed quickly and thoroughly.

I look forward to working with those Senators and all Members of this Chamber. Let me say, Mr. President, that although there are certain conferees named, all Senators are invited to have input, as they have had on this bill. I commend Senator HOLLINGS of South Carolina, the ranking Democrat and former chairman of the Commerce Committee, who has provided so much leadership on this bill. Indeed, he has brought to this process a very bipartisan spirit, and I look forward to working with him and the Republicans and Democrats in the Senate and the House.

Mr. President, I reserve as much time as I may have and I note the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I wanted to have a discussion this morning prior to the Senate appointment of conferees to the telecommunications bill.

After the appointment of conferees, there will then be a conference between the House and Senate on the telecommunications bill. This bill is very important. The telecommunications bill is the first substantial change in telecommunications law since the 1930's.

All of us know what has happened in this country to communication since the 1930's. I mean, it is breathtaking the kinds of changes we have seen in the communications industry and for everybody in this country. So when this Congress sits down and decides to make changes to law—and we should and must—the question is, How will those changes affect our country? Who will they affect? What will they affect?

One of the things I have been very concerned about is the issue of universal service for telephone service. You know, it is more costly to have telephone service in a town of 100 people in South Dakota, North Dakota, or Montana, than it is to have telephone service in New York City. Why is that? Well, because the fixed costs of providing telephone service in New York can be spread over millions of phone instruments, but in Grenora, ND, the fixed costs are spread over relatively few telephones.

But is the telephone in Grenora, ND, or Regent, ND, any less important than the telephone in New York City? No. One is used to call the other. The absence of one makes the other less valuable. Universal service in telephone service is important. It has been a concept in this country we have understood and protected for a long, long time.

We must make sure to protect universal service in the telecommunications legislation. People say, ''Well, this bill is about competition.'' I love the flowery language about opening up the petals of competition, competition in the marketplace; worshiping at that altar is what is going to allow us to flourish and provide vast new opportunities in communications for everyone in our country.

I want to talk a little bit about that competition today. One can conceive of competition in a rural area being someone saying, ''I want to come into this rural county''—where you barely have a telephone structure and are able to survive currently—''and I want to pick the only town that exists out in that county and serve that. That is all I want to serve.'' What about the rest of it that cannot stand by itself? ''That doesn't matter to me because I only want to compete in that small town.''

That is the kind of thing we have to be concerned about. We need legislation that protects us and provides universal service for the long term. We made progress on universal service in the telecommunications bill. Now, we just have to keep universal service intact in the conference. That is critically important.

There are two other areas that concern me greatly.

The two areas are this:

One is, when should local telephone carriers who essentially have a monopoly be free to compete in long distance? And should the Department of Justice have a role in determining when there is competition in the local exchange so that that carrier then is free to compete in long distance? The bill is set up pretty much like it is for airlines.

The airline situation says that if a couple airlines want to merge, the Department of Transportation determines whether it is in the public interest, and they make the decision, and they say to the Department of Justice and the antitrust folks over there, ''We will allow you to advise us on what you think, but we will make the decision at the Department of Transportation.''

Guess what? There has not been a merger that these folks have not loved to death. It does not matter which kind of corporations want to marry. Two airlines want to marry each other? Just fine. The Department of Justice might say, ''This is going to be anticompetitive, it is going to increase fares, it is not going to be in the public interest.'' But guess what? The Department of Transportation says, ''Well, it's just fine with us. Just get hitched. Merge up. That's fine.''

What do we have in this country these days? We see all these big airlines swallow the little airlines, either they crush them or they swallow them, one of the two, whichever they have the opportunity to do.

And if they decide to buy them and merge, the Department of Justice might say, ''Well, you know, they are trying to take out their competition here. It will be less competitive if you have this merger.'' The Department of Transportation says, ''It doesn't matter to us. We will allow them to merge anyway.''

That is what the experience has been. If you like that and think that is the right approach, then you do what is done in the Senate bill on telephones and communications. You say the same thing, prevent the Department of Justice from having a role in determining whether you have anticompetitive practices.

That does not make any sense to me. This bill is advertised with neon lights and bells and bands as being a bill for competition. ''It provides America the fruits and flowers of competition.'' Well, if that is the case, why would you not allow the Justice Department and the antitrust people in the Justice Department to weigh in on the question of when are you involved in anticompetitive practices? When is there truly competition in local exchanges so the local telephone carriers can then be free to compete in long distance?

The second area I want to talk about is whether there should be limits in this country on the number of television stations you can own. Or, the number of radio stations you can own.

Why is that important? We now have in law a limit that you can only own 12 television stations. It says 12 is the limit; and those 12 can reach no more than 25 percent of the American population. Now, why would we have a law like that? Well, because we believe that there ought to be competition in the flow of communications and ideas and in the media.

How do you promote competition? By broad-based ownership; that is how. If you get concentration of ownership, if you get half a dozen companies owning everything, you do not have competition. So we said, in the television industry, you can only own 12 television stations that reach no more than 25 percent of the population.

Now, we write a bill, the telecommunications bill, that we say promotes this idea of competition, and guess what, the bill says, ''By the way, we are going to change the law. Now you can have as many television stations as you want. You want to own 100? God bless you. You can own 100. It is no problem with us,'' they said. ''And we want to, by the way, allow you to own as many as you want up to 50 percent of the population.'' Then they thought better of it and said, ''OK, we better compromise; 35 percent of the population.'' So you can own as many television stations as you want that reach 35 percent of the population in this country.

Well, anybody worth their salt knows what is going to happen as a result of that. We will see a half dozen companies in America owning almost all the television stations in our country. And if you look surprised 10 years from now when we reach that point and stand on the floor of the Senate and say, ''Gee,'' scratch our head and say, ''Gee, I never thought that would happen,'' let me just tell you it is going to happen. You know it is going to happen. And it's not good for this country. This is about pressure, politics, and big money; it is not about good economics and good competition. Look what has already been happening in this country. Mega media mergers. This is not a discussion in which I am trying to be pejorative about all these mergers. Some are probably just fine.

People say, ''There's all this competition. Why should you worry about somebody owning more than 12 televisions stations? We have 250 channels or 500 channels.'' That sounds interesting. One of the major networks owns 19 cable channels, 19. So when you say we have 19 channels, is that competition where the same company owns it? I do not think so.

Here is a new mega media merger. We witnessed their big grins, smoking their cigars talking about this merger. Time Warner and Turner Broadcasting Co. Both are good companies. People I admire work for these companies. But let us look at the size of these companies. Time Warner decides to merge with Turner, for a total of $18.7 billion in revenue. Look at their cable holdings: CNN, TBS, TNT, Court TV, HBO, Cinemax, Comedy Central, Warner Brothers Television Network, New York 1 News Channel, on and on. You see the publications, the cable systems.

Mr. KERREY. I wonder if my friend from North Dakota will yield?

Mr. DORGAN. I will be happy to.

Mr. KERREY. First of all, I ask my friend from North Dakota, Mr. President, is it not the case that one of the arguments we have heard all along for this bill that we are going to get more competition?

Are Time Warner and Turner competitive?

Mr. DORGAN. Yes.

Mr. KERREY. Will we not get less competition as a consequence of bringing these two companies together?

Mr. DORGAN. Yes, that is exactly the point. When you have mergers, it means companies that used to be two get married up and now they are one.

Mr. KERREY. I wonder if my friend also will talk about something else that I think is terribly important. That is, all of us, when we go home and talk to people who are working, they feel a great deal of insecurity about their jobs today. As I saw that announcement, it seems to me I heard them say that there may be somewhere between 5,000 and 10,000 fewer jobs as a consequence of this merger, that they are expected to have some savings, as they call it, as a consequence. I believe I also saw Ted Turner is going to get $20 million a year for 5 years and Mike Milken got $50 million for shaking hands, none of which I doubt will benefit those people who will lose their jobs.

James Fallows the other morning talked about the fact that a single corporation, Boeing, laid more people off in the last 5 years than every corporation in Japan has over that comparable period of time.

What is going on, I ask my friend from North Dakota? We heard all through this debate that this piece of legislation was going to create jobs, that we are going to get more opportunity, that this is going to be good for the American worker? Do you see it that way?

Mr. DORGAN. I do not see it that way. I am going to go through a couple of charts and talk about the mergers, the corporate weddings where people get together and say, ''Bigger is better. There used to be two, we are now going to be one, we don't have to compete. We control the markets.''

They say, ''This is all about competition. We are going to have competition and competition is good for people.'' Not in this case. This is about concentration, the issue of whether you ought to limit the number of television stations you own to 12, as in current law. Some feel maybe we ought to make an adjustment. It should not be a political adjustment by somebody in Congress who says, ''Gee, let's remove the shackles from the folks who want to buy 100 television stations.'' Maybe that ought to be made by the Federal Communications Commission after an

evaluation of what represents effective and good competition, what is in the public interest.

ABC and Walt Disney got hitched a couple months ago; ABC and Disney. Let us look at what all this means. Disney, 11 television stations so far: Walt Disney Television, Touchstone, Buena Vista. They have cable: Disney channel, ESPN, Lifetime, they have 10 FM radio stations, 11 AM radio stations, publications, retail, motion pictures.

Put all of this together and what do they have? Less competition. Is that bad? Not necessarily. I am not saying every merger is bad. I say when you look at the confluence of mergers in this industry, you cannot conclude at the end of that look that this is good for competition. You cannot at the same time brag about the virtues of competition and then create a bill that gives you a fast slide toward more concentration. That does not fit.

CBS and Westinghouse just announced they were fond of each other and decided they would have an arrangement to get together. I do not know much about either of them, but let us look: 15 television stations owned by CBS broadcasting; Westinghouse has 18 AM stations, 21 FM stations; they have cable channels, publications, a whole range of broadcasting properties, $4.5 billion revenue.

Another merger, Gannett and Multimedia—15 television stations, $4.5 billion revenue.

NBC and GE, they are folks looking around to figure out who they can put together. There have been no mergers here, but there is lots of speculation in the press about if this group is able to be out there alone when everybody else is forming new partnerships. Fox, take a look at Fox.

Mr. KERREY. I wonder if my friend will yield for an additional question.

Mr. DORGAN. I will be happy to.

Mr. KERREY. One of the things the public needs to understand, it seems to me, is that these companies have been given public franchises. They made their money not as a consequence of going out and starting a business and trying to get customers to buy their product. Their business began by coming to Washington, DC, and getting a public franchise, in many cases a monopoly franchise.

The phone company is a monopoly. It is not a competitive business. It is not a farm in North Dakota or a manufacturer in Nebraska. This is not a person who said, ''Gee, I have an idea. I want to go to my bank, borrow a little bit of money, put a little bit of my money on the line, go into business and get customers to buy my products.''

You have 12 stations on that list on the left. These are franchises granted by the people's Government to these businesses. In the case of each of these stations, even if some of them do not make any money, just by holding a contract with the Government, the franchise that they have been given has value. They sometimes sell these stations for 20 times earnings simply because people know that there are a limited number of franchises. There are only so many that we can grant to these companies.

So they own something that the people have given them, they have made money as a consequence of the Government having granted them a license, and now they come in and object, very often, to us putting rules in place. They say, ''Oh, no, let the market take care of this.''

They did not make their money off the market to begin with. Certainly, they are out there selling and certainly there is a competitive environment. It seems to me, however, that it is a different kind of business than most small businesses and most entrepreneurs and most free enterprise capitalists who start off and try and engage in the competitive exercise of producing revenue from customers.

Mr. DORGAN. I agree with the Senator. The point is, these are important properties, and the reason we provide them franchises is the communication industry is a very important industry. I am not unmindful of the fact that some of these are very good corporations, very well run. I am not critical of individual corporations. I am critical of a mindset that says it does not matter how big you get, you can combine all you want and earn all you want and the public interest be damned. I am critical of that, because I think there is a public interest in maintaining and fostering competition in this country. The fewer corporations you have in an industry, the greater concentration you have, by definition the less competition you have. And that does not auger well for the American people.

The Wall Street Journal has an article. I want to read the headline: ''Immediate Consolidation Has Left and Right Worried About Big Firms Getting a Lock on Information.''

You talk about an odd couple. A picture of Bill Bennett and Jesse Jackson. That is both ends of the political spectrum, both of them essentially saying the same things: Worried about media concentration, media consolidation, stemming the flow of ideas, the competition that comes from having ideas moving from different centers of energy.

We need to reform our telecommunications laws. But this bill is in deep, deep trouble. If you try to push this bill through the White House, I think the President is going to veto it. I think what he said publicly indicates he is going to veto it, and I think he should veto it. He ought not in a million years allow a bill to come to the White House where a bunch of politicians decide, ''Hey, boys, let's take the limit off the number of television stations you can own. Let's say the sky is the limit.'' That is not in the public interest. That may be part of a deal somebody wants to make around here, but that is not in the public interest.

That is why when we had a vote on an amendment I offered, with the help of the Senator BOB KERRY from Nebraska, we prevailed, that is why we won. A lot of folks did not feel comfortable voting against an amendment that says, ''Hey, let's have the FCC determine what kind of limits are in the public interest, instead of a bunch of politicians saying we are arbitrarily going to say the sky is the limit on the number of television stations you own.''

So we won the vote, and then, politics of course—and somebody changes their vote and we lose.

The reason I come to the floor today is to say, if you try to push this kind of bill without a role for the Department of Justice on the issue of antitrust and on the issue of where there is competition with respect to the telephone industry, and when local carriers who have a monopoly are free to go out and compete in the long distance area, if you try to push a bill without the opportunity for the Justice Department to weigh in on this question of public interest and competition, I think the President will veto it.

If you try to push a telecommunications bill through conference committee that says the sky is the limit on television ownership, we do not care about concentration—the bigger the better, and the less competition the better, I think this President will veto it.

In conference, if we can make changes in this bill dealing with ownership limits on television stations and radio stations and make some changes with respect to the role of the Department of Justice, I think this bill will advance. If it keeps protection for universal service, then this bill can and will advance and should be signed by the President. If not, I hope very much the President says, no, this is radical and extreme and should not pass.

I yield the floor to my friend from Nebraska, Senator KERREY.

Mr. KERREY. Mr. President, first of all, I thank my friend from North Dakota for this presentation. I would like to be able to vote for a piece of legislation. I have spent a great deal of time on telecommunications. I am prepared to not only embrace the future but place a bet that there is tremendous opportunity for us in technology. Many of our systems need to rapidly acquire the transmission capacity to use these new technologies, as the computer moves from a calculating device to a communication device—I think, especially, for example, for our university systems.

I just had a meeting a couple of weeks ago in Nebraska with an individual with a very large software company who happens to be from a farm not far from Ashland, NE, and who came back to try to help us bring computer technology into our university. It is a tough transition. The university is sitting there with a real problem. They

have increased enrollment as people recognize that a college degree is worth an awful lot more than a high school degree. Student enrollment has almost doubled in a 4-year period as that demand goes up. In addition, what a person needs to know coming out of college is that there is a doubling, tripling, quadrupling of the requirements of the universities and they cannot get the professors and instructors to do more for less. The tax base will not allow us to build more buildings rapidly enough to be able to accommodate the demands. Only one thing can do that for us, and that is computer technology.

We are trying to figure out how to get these systems into an old system that does not replace the old system but augments it. Well, there are real serious problems trying to make those adjustments. We just got a couple of grants to match local commitments for three schools in the State through the Department of Education, and that will leverage a great deal of the private sector, as well as local money, to get the job done. But those are a couple of schools amongst many who are trying to bring this technology into the educational environment. I was pleased that a majority of this body, the Senate—I do not believe it is in the House bill—but in the Senate language we included a provision I cosponsored which provides for preferential rates for local K–12 schools. Connectivity may represent only 17 percent of the total cost of bringing information technology into local schools, but it is an awful lot of money. It is a principal barrier for many communities that do not, as I say, have competitive choice; they do not have competitive choice now, and they are not likely to see it for a long period of time.

So I do not want anybody to suffer under the illusion that I do not support change. I believe our telecommunications laws need to be changed. I am prepared to embrace the future. I am prepared to put down a bet. I am prepared to help institutions from the K-through-12 environment through the postsecondary, and indeed for Congress to bring this technology in so it becomes part of our core competency so that we are able to improve our efficiency.

We are going to debate in reconciliation the earned-income tax credit. One of the biggest reasons EITC has had trouble has nothing to do with the merits of being able to help people at the lower end of the economic scale—a woman, for example, that you see at your checkout stand at the grocery store making $7, $8 an hour, $12,000 to $15,000 a year, trying to support a couple of kids. That is better than being on welfare. So we want to refund your taxes and give you a couple thousand dollars so you can buy health insurance. Well, the IRS has a tough time doing it because it does not have a good information system.

I am prepared to embrace technology and place a bet because I believe there is tremendous merit in it. However, if we change the law to produce less competition, not more, to concentrate the power into fewer and fewer hands, to concentrate not only the power of economic decisions—but, I point out to Americans, it will concentrate the power of the individuals to be making decisions about what to tell us is going on in the world—these deals being done in anticipation of this law being changed will present Americans in their homes with fewer news choices. Fewer people will be telling us what is going on out there in the world.

I would love to be able to stand on this floor and vote for a piece of legislation that changes the law. I believe strongly, first of all, that there needs to be preferential rates for education. I believe strongly what the Senator from North Dakota is saying, that concentration in television stations would be a mistake. I believe strongly, as well, that we are far better off, instead of having a 10-part test that the Federal Communications Commission is going to look at to determine whether there is competition, to have the Department of Justice with a role in making the decision regarding entry by the regional Bell operating companies into the long distance market.

Mr. President, earlier, before I came to the floor, I was discussing with staff the reconciliation bill, trying to prepare myself for that debate. There is a lot about it that we do not know yet. We have not seen the details on the Medicaid proposal or the Medicare proposal, and there is a lot of discussion on the tax side of it and so forth.

One of the things I have said to staff is—and I will say to the people at home when discussing this—before we can talk about what kind of a budget we have here in Washington, we have to have jobs and growth and income out there in the private sector. That is where the money comes from. One of the most remarkable constants in this town over the last 70–80 years, really—is that the percentage of money that we withdraw for Federal expenditures from the economy has stayed, except for World War II and the Vietnam war, roughly 19 percent. It is about $1 out of $5 we bring to Washington for a variety of things. One of the disturbing things I find is that we are transferring more and more of that and investing less of it. Almost 7 cents out of every 10 cents, or 70 cents out of every dollar today, is transferred out for retirement, health care, or other sorts of things. That is a real concern.

We now know there is a great deal of consensus—and some may not believe this, but I believe that it is important for us to have laws, whether it is the regulations we have or the tax laws we have, and it is important for us to have expenditure patterns that produce economic growth.

Without economic growth, without people out there that are willing to invest money and willing to run the risk, whether it is a big or small business, it seems to me that we have serious problems.

Indeed, during the week that we took off to be at home last week, the Census Bureau came out with numbers that showed that as a result of the economic growth that we have been enjoying in the last 15-some months, we have seen the rates of poverty drop—not just the rates of poverty, but the number of people who are trapped in poverty has decreased. In almost every State—certainly in Nebraska—as a result of economic growth, we saw a substantial decrease of almost 20 percent in the number of people who are in poverty.

Now, the alarming thing in that—we know if we have rules and regulations and tax structure and expenditure patterns that produce economic growth, which we have to constantly watch and make sure that we have, if we have economic growth then we do see the boats of those who are poor begin to lift, a good piece of news.

However, the Census Bureau said there is a continuation of the widening between the economic haves—those in the work force, not on welfare, at the lower end of the economic spectrum—and those like Members of Congress that are at the higher end of the economic spectrum. There is a widening gap. The market growth all by itself does not seem to be fixing that problem.

One of the downward pressures upon wages in this country is the concentration of power. No question about it. You cannot read whether it is a bank merger or a megamedia deal that the Senator from North Dakota talked about earlier, every single one of the transactions talks about thousands of people being laid off. Every one.

You have the Time-Warner-Turner deal up there earlier, that was the most egregious example, because they said 5,000 to 10,000 jobs would be lost. However, the good news is Ted Turner will get $20 million a year for 5 years and a convicted felon will get $50 million—Mike Milken.

Workers out there are saying, well, we are doing everything we are supposed to be doing; should the laws of this country be written so that people can come in and merge the deal? And maybe it is a good deal. I am not coming down here proposing we change the law to prohibit this, but it is painfully obvious that inside of this transaction we are creating something that will create significant problems: 5,000 to 10,000 people being laid off, and a couple of guys making a heck of a lot of money.

It is not like we are talking about somebody starting a chain of restaurants or somebody—a doctor or somebody—that started a business from scratch.

These are companies that made their money as a consequence of a Government franchise. They were given the right to broadcast. They were given the

right to operate cable companies. They did not go out there and start this business out there in the wild blue yonder.

Mr. BURNS. Would the Senator yield?

Mr. KERREY. I am happy to yield to the Senator.

Mr. BURNS. Would you also relate what you are talking about to the Homestead Act?

Were the farms and lands granted to individual ownership by an act of the Homestead Act?

Mr. KERREY. If you want to talk of the Homestead Act, it has many specific requirements for the individual to develop, and if they worked the land and developed the land, they owned the land.

Mr. BURNS. Would you make the same comparison that spectrum—even though granted by this Government—has no value unless investment is made in equipment to make it valuable in the Government, I suggest to my friend in Nebraska, the Government did not go out there and buy—did not put up the tower, did not pay for the technology.

Mr. KERREY. I am pleased to acknowledge that is the case, in fact. No question that it is true that when we give somebody a monopoly franchise, when we give them that and say it is yours, there is no question they have to make an investment.

Mr. BURNS. Did we not make the same requirements when we gave the land, probably what your house sets on, and our house and my house, probably the folks up there, did we not make the same demand that we had to make——

Mr. KERREY. Mr. President, I ask the Senator from Montana, what is the point? I acknowledge that is the case.

Mr. BURNS. The point is that the land was granted and then there was a property right. The point is there was a property right—they could buy and sell that land from that point on without Government intrusion.

I just want to make that comparison, and I also ask is there anything in this act——

Mr. KERREY. I can answer the question, now I understand what the Senator is saying.

You are saying that bandwidth and a piece of real estate are the same? They are not the same. In that regard they are not the same. The people's airwaves are licensed.

Mr. BURNS. If it were not for the Homestead Act you could say it is people's land.

Mr. KERREY. It is not the same.

Mr. President, I ask the Senator from Montana, did the Senator believe we should not pass laws restricting what broadcasters can put over the airwaves? We do not have similar laws for people in their home. I can engage in any kind of discussion I want inside my house.

Do you think, I ask the Senator from Montana, should we have pornography laws in place or let the market dictate—they own it, for gosh sakes. Let them put whatever they want over the airwaves. Does the Senator from Montana believe the Government should not write decency laws in place to protect the communities?

Mr. BURNS. I imagine if you did that on private land you will have a neighbor holler at you.

Mr. KERREY. I ask the Senator from Montana a question: Does he believe that the people of the United States, having granted a franchise to somebody to operate a service using a piece of the frequency bandwidth, should say, ''You own it, do whatever you want? It is yours, have some fun with it. If you want to show pornography on television at 6 o'clock go do it.''

I am asking the Senator from Montana, does he believe that the people's laws should be written to protect against pornography, or does he believe we ought to change the laws to say, no, you own that, we get rid of pornography laws, let the market take care of it?

Mr. BURNS. I say there are certain rules but there are rules and regulations placed on land ownership.

I want to say that the land originally that was purchased by this Government through the Louisiana Purchase was paid for by the taxpayers of this country, taken from the Treasury. And then it was given, 160 acres to anybody that wanted it, who could stake it out and build a house and make it produce. After that it becomes—

I say what is the difference when you take a grant from a Government on a resource——

Mr. DORGAN. Let me reclaim my time, if the Senator would indulge me.

Mr. KERREY. I have the floor, Mr. President. I yielded to the distinguished Senator from Montana to ask a question and we have gone beyond that.

I am perfectly willing to have a debate about the comparative analysis between the Homestead Act and private property and franchises granted to phone companies to have a monopoly to deliver a local telephone service or to a television station or radio station to broadcast over public airspace.

I am perfectly willing to acknowledge certainly there is a similarity in having granted that franchise that people make substantial investments.

Mr. DORGAN. If the Senator would yield, the Senator from Montana raises an interesting but irrelevant question.

It is always interesting to hear irrelevant questions but this is irrelevant.

I guess the proposition you are trying to develop here is that concentration does not matter. If you receive a franchise to send a television signal, you have that and you do what you want. If you want to concentrate and bring them into one ownership pattern in this country that is fine.

The issue here we are talking about is concentration—not the television band, but the concentration.

I bet the Senator from Montana cares a little bit about concentration in the meatpacking industry. We have not talked about that. But I bet when you have three, four, five companies commanding 85 to 90 percent of the meatpacking industry, creating the neck on top of that bottle that forces down ranchers and holds their prices down, I bet the Senator from Montana cares about that.

If he does, and I think he does, and I care not only about that but I care about the big agrifactories that will be the superagrifactories farming America pretty soon, the fewer family farmers we have the more concentration you have and the less advantage you will have for the consumer because it is not in this country's interest to see concentration. It is in this country's interest to see broad-based economic ownership.

If it is true that the Senator from Montana believes that concentration in the meatpacking industry is a problem, and I think he does, and God bless him for that, I think that is in the interest of Montana ranchers and North Dakota ranchers to believe that, is there a point at which the Senator from Montana would believe that concentration in this industry is a problem?

If there is, then we ought to debate where is that point. He may figure you can have a dozen more of these mergers and there is not a problem but this will be a point, I assume, where he might also think that the concentration in an industry we are moving about ideas and information is as dangerous in this country as the concentration in the meatpacking industry is to his ranchers.

If that is the case, then we ought to be debating not whether concentration is good or bad, but how many more of these does one need to see before one understands that saying the sky is the limit on the number of television stations you can own is good for America. That is the point we are making today.

Mr. BURNS. I would get very upset. We have already filed an action, as far as IBP is concerned, on meat packing.

Mr. DORGAN. So the Senator agrees the concentration of the meatpacking industry is damaging?

Mr. BURNS. I would. I would be very concerned about this. But there is nothing in this piece of legislation as passed by this Senate that repealed the Sherman Antitrust Act. We did not repeal the Clayton Act, or the Hart-Scott-Rodino Act.

In other words, the Justice Department is not cut out of this. Somebody has to bring an action, and I imagine before now—and, remember, this is happening under the present law. This is happening under the present law. Not under one we are going to go to conference on.

Mr. DORGAN. But some of this is happening in anticipation of us passing what my colleague and others have supported. In fact, some of these mergers now have more television stations involved than they are permitted to hold. Why would they do that? Because

they know some in here have said we want to take the limits off the number of television stations you can own, so, because they are going to do that for us, we are going to start gearing up and have more stations than the current law allows. So they are anticipating what you are going to do for them. I am saying what you are going to do for them is not good for this country, that is the point.

Mr. BURNS. This Senator is not going to get into the business of forecasting what might happen. I am saying this is probably the biggest jobs bill we will pass. I just wanted to throw that in there.

Do we repeal any of those antitrust acts that are now the law of the land? No. And, on spectrum, has it any value at all until someone makes the investment to make it valuable? And then does it become a property right? That is what we have to see.

Those of us who live in the West—I think the Senator from North Dakota is very sound in his thinking, and understands the same values that I understand, because western North Dakota and eastern Montana are awfully a lot alike, on the way they think. But, if we took that case, basically, then maybe we should not have granted all that land to private ownership. Maybe we should have Government control all the way. In other words, I do not know how it is halfway/halfway/halfway.

But I ask those questions. I would be concerned about concentration because I think we will finally get to a point where Justice will have to step in on the meatpacking industry. But we have the laws in place for them to do so. The same laws would apply to concentration here.

Mr. DORGAN. My point is—and let me restate the point, probably more clearly. My point is on both areas of this bill. One is the trigger of when you have competition in the local telephone exchange so the monopoly carriers there, the Bell systems, are allowed to go out and compete against long-distance carriers. That trigger is a trigger that does not have the active participation of the Justice Department determining when there is competition. So you have, in my judgment, largely eliminated or limited Justice's role. Second, my point is we have affirmatively changed the law in this legislation that says: We used to say you can only own 12 television stations in this country because we thought that was in the public interest, but, guess what, we have folks here generous enough to believe you ought to be able to own as many as you like, the sky is the limit. Both of those changes, both of those actions taken by this Chamber, in my judgment, move against the public interest. That is the point of it.

The fact is, there are things in this bill that are good. I agree with that. And we ought to do a bill. I agree with that. But you move this bill with those provisions in it forward and it is going to get vetoed and it ought to get vetoed. That is the point of it.

We are about to appoint conferees to sit and have a conference, and there is not much disagreement between the House and Senate on these provisions, unfortunately. We have sort of the same mindset. My point is, it is a mindset not good for the people of this country.

The Senator from Montana makes some interesting points on the issue of spectrum. ''Is it not true that when spectrum is given someone and that person makes an investment, does that not enhance the value of the spectrum?'' So, of course, the Senator wins a debate we were not having. Of course. That is not the point. The point is concentration.

It is the point in both areas we are talking about, the telephone service and competition, the issue of concentration, and the issue of when the Department of Justice has a role and what role. And also the issue of concentration of media ownership.

I should put up a couple of other charts. I had a chart of TCI, a very large cable company, and a chart with Viacom, which has substantial holdings in a number of areas.

Let me point out, it is not my intention to say many of these companies are bad companies. They are wonderful companies, that have done breathtaking things in communications for which I offer them my heartfelt congratulations. Substantial progress has been made as a result of inventive people who work in these companies.

My point is concentration of ownership. I am a Jeffersonian Democrat. I am one of those people who believe broad-based economic ownership and healthy, robust competition is what advances and drives the best interests of this country. Concentration always augers against the interests of the market system in this country, in my judgment.

I will be happy to yield again to the Senator from Nebraska.

Mr. KERREY. Mr. President, I have said about all I need to say on this subject, having talked on it previously. I just say again, I would love to vote for a piece of legislation. I hope the conference committee comes back with one in a form I am able to vote for it. I am prepared not to just embrace the future but to make a bet, based on my strong belief that there is tremendous opportunity in education, tremendous opportunity for jobs in these new technologies.

But there are 100 million households in this country and each one of those individual households has very little economic power. When it comes time for them to make a purchase of cable service or phone service, when they are buying information services they are not buying at $1 million a month. They are buying at $20, $30, $40, $50 a month; very little economic power, very little. And the 16,000 school districts in America that operate individual schools at the local level, they have very little economic power. Both as a consumer of telecommunications services and as somebody who has been working with school districts in Nebraska, trying to get them hooked up to the Internet, trying to get them enhanced information services, I can tell you that when you do not have much economic power you do not have much choice. You do not have much leverage. You do not have much opportunity.

These guys who are doing these deals, they have real power. When you have a couple of billion dollars you can leverage an awful lot. But when you do not have much economic power you cannot.

The importance of this is not only consumer choice, not only the kinds of decisions that our citizens will be making as a consequence of who tells them what is going on in the world—and they are getting fewer and fewer numbers of people telling them what is going on in the world—not only is it relevant for those individuals in the household, but it is terribly relevant for our economy. Our economy has been robust and develops as a consequence of a competitive environment. The competition that matters the most is that entrepreneur who starts in business, who says, ''I would like to approach that household, I would like to sell packaged information services in the households in Omaha, the households throughout this country, I would like to be able to approach those consumers and try to give them a competitive option and a competitive alternative.''

Those are the people that this legislation ignores. This legislation has been put together with far more concern about the national companies, the regional companies—whether it is long distance or local—who come here and say this is what this is going to do for me, this is what it is going to do for the other guy.

This has been a balancing act from the beginning, between a range of corporations, long distance and local versus cable versus publishers versus all these big guys and gals who come into Washington and have access and are able to come and talk to us. This has not been put together by the entrepreneurs of America. It has not been put together by the consumers of America. It has not been put together by people who are either going to create the jobs—and most of the new jobs are not going to be created by these megacompanies. They are going to be created by the smaller startup companies. It has not been put together, in my judgment, in a fashion that is going to enable competition to really produce the benefits this Nation, I think, deserves and needs and expects.

Mr. DORGAN. Mr. President, I was originally considering, along with the Senator from Nebraska, offering a motion to instruct conferees this morning. But it turned out to be something that we thought was probably not

fruitful and not the thing to do. So we, instead, came to the floor to describe a couple of major areas of this bill that tell us, and I think tell a lot of people, this bill is in trouble.

I hope after a lot of reflection that conferees will recant or repent or rethink these two issues and address the issue of competition in the right way. You cannot advertise competition when in fact the product you are describing is enhancing concentration. That is mislabeling. There is much to commend this legislation for, but these areas are of great concern to us.

I hope very much that we get a different result out of this conference. We decided not to offer a motion to instruct. But there is going to be a lot of attention paid to this conference by us, and by a lot of others in this country. The result of this conference will have a significant impact on what people in this country will experience in the future.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Thirty minutes.

Mr. DORGAN. Mr. President, I have finished my presentation. The Senator from Nebraska has finished. The Senator from Vermont wanted 3 or 4 or 5 minutes. I will allow the Senator from Vermont to take whatever time he wishes and ask that he return the remaining time.

It is my understanding that the other side does not intend to use his time. When the Senator from Vermont completes his statement, we are finished with respect to the time agreement.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank my good friend from North Dakota. I was at another hearing, and I heard this debate was proceeding on the floor. I am concerned that we may end up in a situation with this conference where, among other things, the Senate does not even have Members of the Judiciary Committee on the conference.

The distinguished senior Senator from South Carolina, Senator THURMOND, who chairs the Antitrust Subcommittee of the Judiciary Committee, and I have written to the majority and minority leaders on this legislation asking that we be named, or people from our subcommittee on antitrust be named to the conference. I believe the House has named a number of Judiciary Committee members to their conference. Yet, we do not have anybody from the Judiciary Committee here.

There are significant antitrust issues. There are significant consumer issues. There are significant competitive issues, all of which have been looked at, explored and discussed by the Judiciary Committee. Yet, Senate Judiciary members will have no input in the conference, and we all know the bill is going to be written in conference.

When we remove competitive incentives, we all know what happens. Take a look at the cable industry. If you are fortunate enough to get cable television in Fairfax County, VA, you are faced with using antiquated equipment in the form of a set-top box that is kept on only because the consumers have to pay a monthly fee to use it even though the stuff would be in the trash bin otherwise. You pay a significant amount of money. But they can do that. They can give you an inferior product. They can give you out-of-date equipment. They can charge you for the use of outdated equipment because the cable company has a monopoly.

We are going to see some of the same things happen here without competition and without the consumer being considered in any way, shape or manner.

This bothers me a great, great deal, and it should bother all Senators, as it does Senator THURMOND and myself. This is not a conservative issue. Obviously, the two of us join on this question. But, rather, it is a basic, good-sense consumer issue. If you end up getting gouged in your cost, the people gouged will be both Republicans and Democrats and Independents. The people gouged will be in the North, the South, the East, and the West. One thing they will all share in common may not be a political ideology, but it will be the pain they will feel in their pocketbooks.

Yesterday, the House appointed 34 conferees to this conference. Of those 34, 14 of them came from the House Judiciary Committee. We do not see—as yet anyway—any Senate Judiciary conferees at all. They have 14. We do not even see any coming from the Senate Judiciary Committee.

As I said, earlier, Senator THURMOND and I sent a letter to the chairman and the ranking members of the Commerce Committee making clear our view that you should have Senate Judiciary Committee members. We would help with the conference to assure that those issues relating to antitrust and competition are resolved in a principled manner, good both for American business and American consumers.

If anyone would look at the hearings that Senator THURMOND and I and other members of our subcommittee have held on telecommunications legislation, they would see stressed the need for telecommunications reform both for business and for consumers.

Certainly, it does not take any special knowledge to know how critical telecommunications is to the economic health of our country, or to the education of our children, or to the delivery of health care services to our citizens, or to the overall quality of life in this country. In fact, the explosion of all these new technologies in telecommunications has fueled many of our newest innovations.

In the way I run my office—I know the distinguished Presiding Officer does the same—we do virtually everything in telecommunications by our computers. Just as frequently as we see memos or letters on paper, we also see electronic messages sent by computers. I stay connected by computer and telephone at home in the Washington area, in my home in Vermont, and at my office here at the Capitol. It is a given. When I get to Vermont this weekend, I will in effect be able to bring my office and my files, my filing cabinets, my staff, and everything else with me with a laptop computer. More and more of us do that. More and more of us are more efficient doing that.

But when we have legislation like this, we want to make sure that it expands those abilities and not contract them. Our challenge is to keep pace with the changes in the marketplace. But, if in keeping pace with them you pass legislation that stifles the growth of the industry, that quashes the opportunity presented by rapidly expanding telecommunications technology, then we have done a disservice to the country. We have done a disservice to consumers. We have done a disservice to business. We have done a disservice to the competitive edge of our Nation as we go into the next century.

So we have to make sure that our laws governing our telecommunications industries provide for future growth but to the benefit of consumers. We have to make sure that the promise of this legislation to open up competition in telecommunications is fulfilled because that is the bottom-line purpose of this legislation: to open up competition in telecommunications. If we do it wrong, we will not see new competition. We will see competition stifled. We will not see new innovation. We will see innovation stifled. We will not see consumers benefited. We will see consumers harmed. We will not see a cutting-edge industry having a chance to expand, but rather see the cutting-edge industry facing a dead end.

We have to understand that the Senate telecommunications bill is significantly different from the one passed by the House. This conference is going to be one of the most complicated, complex and difficult ones we have had in years. The conference is going to have to pick and choose between provisions in the two bills, provisions that are in many cases unreconcilable. They are not provisions like in an appropriations bill where maybe we can just split the difference. It is a case that you are either going to have to craft an entirely new provision or drop one or the other.

I think that given that situation it would be helpful to have input of Members with expert knowledge in antitrust issues. In fact, on the modification of final judgment, the MFJ, the House, to their credit, realizes that and has put Judiciary Committee members on the conference. The Senate has yet to do it.

In fact, the administration now threatens to veto this legislation for a number of reasons, including the need

for a stronger test for Bell company entry into the long-distance business and also a more meaningful role for the Justice Department.

I also share the administration's concern about the legislation not only taking the lid off but also promoting increased cable rates. I mean, we have already lived through a period of skyrocketing cable rates. Congress took action to address the problem of cable rate increases when we passed the 1992 Cable Act over a Presidential veto. Let us not go backward in time, but go forward with responsible telecommunications reform.

Again, I use Fairfax County as an example. Here you see rates go up for antiquated equipment. Rates go up, we are told, for all these channels we get, most of which I doubt if anybody including the cable system ever watch. But if at 3 o'clock in the morning, you are moved with a great desire to buy 10 pounds of zircons, you have at least five channels that you are paying for to know where you can buy those 10 pounds of zircons. Or, if you need to have your soul saved there are at least 10 different people at any given time who will tell you that your soul will be saved but only if you send the money to them. I guess they give you a plaque saying you have been saved. None of the 10 says why the other 9 should not get the money and why you get less soul salvation from them.

Well, that is fine, but I just wonder whether there might be a little more filtering, a little more selectivity, if there was competition here. Without competition, their rates go up. We see the same thing in local telephone service. Their rates go up because competition is not yet available.

Now, we know that there is a need for new legislation. Certainly the legislation from the 1950's, 1960's, 1970's, and early 1980's cannot keep up with the technology of today. But let us make sure we do not turn the clock back both for business and consumers. Rather, give us a chance to use the marketing and technological genius of our great country as we go into the next century.

I worry also about issues like criminal penalties for engaging in constitutionally protected speech that occurs over computer networks. Right now a provision in the Senate telecommunications bill would penalize you, if you are, for example, a botanist and click onto an online article on wild orchids, but suddenly find something that is not the kind of wild orchid you grow in your planter but reference to an obscene movie. The fact that you even clicked on, downloaded and found out what it was, you could be prosecuted. The distinguished Presiding Officer uses the Internet as I do, uses his computer as I do. Not that this would ever happen, but suppose he sends me a message disagreeing—I say it would probably never happen—but disagreeing with a political position I took. And suppose I sent back a message to him and in the heat of the moment was less than senatorial in my courtesy toward him and used terms that neither he nor I would use. I use this, of course, as a hypothetical, Mr. President. I could be prosecuted under this bill for doing it.

The interesting thing is he might be prosecuted for receiving it even before he knew what was in there, and certainly should he get incensed by what he received he could be in a real heap of hurt if he sent back, and you're one, too.

These are the kinds of silly things that we have crafted in this telecommunications bill that we ought to take a second look at. It might make us all feel good at the moment, but the long-range implications are weird and we ought to look at all of these issues.

The distinguished chairman of the Commerce Committee, the distinguished chairman of the Judiciary Committee, the distinguished ranking members of both of those committees and so many other Members in this body, Republicans and Democrats alike, have worked so hard to get a bill out of here. Let us not in almost a sense of final relief of throwing it out the door, throw out something that is going to come back and bite us. It will not just bite the 100 of us, but hundreds of millions of consumers and dozens and dozens of businesses that deserve better.

So let us appoint Judiciary Committee members. It does not guarantee that everything that I might want or Senator THURMOND might want would be on that bill by any means. But it might mean that those with expertise in the areas of antitrust, first amendment rights, and so on, would have a choice, and we might have better legislation as a result.

Mr. President, I understand that neither the distinguished Senator from North Dakota nor anybody else wishes to speak over here.

I might ask the distinguished Senator from South Dakota if it is his same feeling as the distinguished Senator from North Dakota, that upon completion of this we just yield back all the time?

I understand it is, Mr. President, and I yield back all time.

Mr. PRESSLER. Mr. President, I would just like to make a couple of remarks regarding the distinguished Senator from Nebraska.

Mr. LEAHY. In that case I think I will reserve the remainder of the time, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would say that through this legislation we are trying to address and correct some of the problems raised, and we will be proceeding with the conferees after they are agreed to. I thank all of my colleagues who have participated in this debate, and I am prepared to yield back the remainder of our time on this side.

I am prepared to yield back the remainder of our time.

Mr. LEAHY. I yield back the remainder of our time.

The PRESIDING OFFICER. Under the previous order, the Senate disagrees with the amendments of the House, agrees to a conference requested by the House on the disagreeing votes of the two Houses, and the Chair appoints the following conferees: Senators PRESSLER, STEVENS, MCCAIN, BURNS, GORTON, LOTT, HOLLINGS, INOUYE, FORD, EXON, and ROCKEFELLER.

Mr. PRESSLER. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HOUSE-SENATE CONFERENCE ON TELECOMMUNICATIONS REFORM HAS IMPLICATIONS FOR FIRST AMENDMENT APPLICATION TO THE INTERNET

Mr. FEINGOLD. Mr. President, today the Senate appointed Members to the House-Senate conference committee on telecommunications reform. The historic nature of this legislation and its effect on the lives of every citizen of this country goes well beyond the issues associated with regulation of telephony, cable rates, and other forms of communications. Mr. President, this legislation has dramatic implications for the first amendment rights of every American.

Mr. President, I am referring to the precedent-setting provisions in S. 652 and H.R. 1555 regarding indecency on the Internet. I am here today to urge each Senate conferee to take the first amendment issues of these bills seriously and to consider the ramifications of these provisions not just for speech on the Internet but for all speech in this country. During conference deliberations, I urge Senate conferees to strike the potentially unconstitutional provisions regarding on-line indecency contained in both the Senate and House versions of this legislation.

The issue of Government censorship of the Internet is a critical first amendment matter. Guaranteeing the Internet is free of speech restrictions, other than the statutory restrictions on obscenity and pornography on the Internet which already exist, should be of concern to all Americans who want to be able to freely discuss issues of importance to them regardless of whether others might view those statements as offensive or distasteful.

Specifically, Mr. President, the Exon-Coats amendment, added to S. 652 on the Senate floor, included provisions which I believe violate the first amendment rights of Internet users and will have a chilling effect on further economic and technological development of this exciting new form of

telecommunications. When this matter was considered on the Senate floor, I urged my colleagues to reject the Exon-Coats amendment in favor of legislation requiring the Department of Justice to carefully study the applicability of existing obscenity statutes to computer networks, which Senator LEAHY and I offered as an alternative.

Specifically I have objected to the indecency provisions of S. 652 for the following reasons:

First, indecent speech, unlike obscenity, is protected under the first amendment to the U.S. Constitution; second, an outright ban on indecent speech on computer networks is not the least restrictive means of protecting children from exposure to such speech on the Internet. There are a number of existing tools available today to allow parents to protect their children from materials which they find inappropriate; third, a ban on indecent speech to minors on the Internet will unnecessarily require adults to self-censor their communications on the Internet; fourth, since indecency will be defined by community standards, protected speech by adults will be diminished to what might be considered decent in the most conservative community in the United States and to what might be appropriate for very young children; fifth, the on-line indecency provisions will establish different standards for the same material that appears in print and on the computer screen. Works that are completely legal in the bookstore or on the library shelf would be criminal if transmitted over computer networks; sixth, the Supreme Court has ruled that the degree to which content can be regulated depends on the characteristics of the media. The unique nature of interactive media must be considered when determining how best to protect children. S. 652 ignores the degree to which users have control over the materials to which they are exposed as well as the decentralized nature of interactive technology which liken it more to print media than broadcast media.

Mr. President, the Senate was not alone in its rush to judgment on the controversial and highly emotional issue of pornography accessed via computer networks. Section 403 of H.R. 1555, known as the Hyde amendment, raises equally serious concerns with respect to the first amendment and appears antithetical to other provisions contained in the House bill. The prohibitions against on-line indecency contained in the Hyde language will have a similar chilling effect on the on-line communications of adults. The Hyde amendment is also inconsistent with the more market oriented and less intrusive provisions of section 104 of H.R. 1555, the On-Line Family Empowerment Act introduced by Congressmen COX and WYDEN, as adopted by the House. Section 104 recognizes that first amendment protections must apply to on-line communications by prohibiting FCC content regulation of the Internet. The Cox-Wyden provisions also promote the use of existing technology to empower parents to protect their children from objectionable materials on the Internet, and encourages on-line service providers to self-police offensive communications over their private services.

In addition, the Hyde amendment is incompatible with the pro-first amendment provisions of section 110 of H.R. 1555, which requires a report by the Department of Justice [DOJ] on existing criminal obscenity and child pornography statutes and their applicability to cyber-crime. Section 110 also requires an evaluation of the technical means available to enable parents to exercise control over the information that their children receive on the Internet. Perhaps most significantly, section 110 embraces the application of first amendment speech protections to interactive media. H.R. 1555, while embracing the principles of restraint with respect to new criminal sanctions on protected speech and the promotion of a free-market parental empowerment approach, simultaneously ignores both of those axioms with the Hyde provision. By imposing new criminal sanctions on indecent speech and amending existing criminal statutes, the Hyde amendment rushes to judgment before the DOJ study has even begun.

Mr. President, recently the Senate Judiciary Committee held the first ever congressional hearing on the issue of cyberporn. Based on the testimony of the witnesses, which included parents as well as victims of cyberporn, it became clear that the objectionable communications on the Internet are already covered by existing criminal statutes. The concerns raised at the hearing centered upon trafficking of child pornography, the proliferation of obscenity, and the solicitation and victimization of minors via the Internet. However, those offenses are already violations of criminal law. Indeed, recent press accounts indicate that law enforcement officers are already aggressively prosecuting on-line users for violations of criminal law relating to obscenity and child pornography.

It is critical that we use law enforcement resources to prosecute criminal activity conducted via the Internet and not be distracted by the issue of indecency which has not been identified as a serious concern by users or parents. It was clear, during our recent Senate hearing, that the witnesses' concerns about the Internet did not relate to indecent speech or the so-called seven dirty words. It is incumbent upon Congress to wait for the results of the study required by H.R. 1555 before embracing overly restrictive, potentially unnecessary, and possibly unconstitutional prohibitions on indecent speech contained in both versions of telecommunications reform legislation.

Mr. President, I urge the conference committee to reject the Exon-Coats and Hyde provisions during its deliberations and to maintain the Cox-Wyden amendment adopted overwhelmingly by the House of Representatives. If the United States is to ever fully realize the benefits of interactive telecommunications technology, we cannot allow the heavy hand of Congress to unduly interfere with communications on this medium.

Furthermore, Mr. President, I urge Senate conferees to recognize that if the first amendment has any relevancy at all in the 1990's, it must be applied to speech on the Internet. As Members of this body sworn to uphold the Constitution we cannot take a cafeteria style approach to the first amendment, protecting the same speech in some forms of media and not in others. Shifting political views about what types of speech are viewed as distasteful should not be allowed to determine what is or is not an appropriate use of electronic communications. While the current target of our political climate is indecent speech—the so-called seven dirty words—a weakening of first amendment protections could lead to the censorship of other crucial types of speech, including religious expression and political dissent.

I believe the censorship of the Internet is a perilous road for the Congress to walk down. It sets a dangerous precedent for first amendment protections and it is unclear where that road will end.

CHILDREN'S TELEVISION

Mr. LIEBERMAN. Mr. President, I rise today to continue the discussion that I gather a few of my colleagues here in the Senate began earlier in the day as a result of the fact that conferees have been appointed to deal with the telecommunications bills that have passed both the Senate and the other body. These are very important bills dealing with a rapidly expanding, rapidly changing, ever more influential sector of not only our economy but our lives, that of telecommunications.

I rise today not to talk about the corporate structures that are overlapping or the technical details of the revolutionary changes occurring in telecommunications but to talk about the content, talk about what is broadcast on these increasingly important parts of our lives and particularly to focus on the ever-present box, the television, in our homes and the impact that what is on television has on our kids and therefore on our society.

The Senate and the House included in their telecommunications bills the so-called V chip, or violence chip, or C chip, as we like to call it, choice chip provisions that I was privileged to cosponsor with the Senator from North Dakota [Mr. CONRAD], but which was supported by a very strong bipartisan group in the Senate to create the technical capacity in parents and viewers generally to have some control over what comes through the television screen and affects our kids and also to require the industry to create a rating

system that would make it easier for a parent or anyone to block out shows either rated as too violent or containing lewd material, language or scenes or otherwise—all of that I think an expression of what I am hearing and I would guess the occupant of the chair, the distinguished Presiding Officer, is hearing from his constituents in New Hampshire, that what we are seeing on television is becoming ever more morally questionable; so much sexually inappropriate material is working its way into what is known as the family viewing hours from 7 to 9 in the evening, and it is having an effect on our kids.

I find over and over as I talk to parents in Connecticut that they will say to me: Please do something about the violence and sex and lewd language on television and movies and music and video games because all of this is making us feel as if we are in a struggle with these other great, very powerful entertainment forces in our society to effect the growth and maturation of our own kids.

They say to me, ''You know, we're trying to give our kids values. We're trying to give them a sense of priorities and discipline, and then the television music, movies, video games come along and seem to be competing with the values we're trying to give our kids. So please try to help.'' And the V chip component of these two telecommunications bills is critical to that effort. And I hope that the conferees will keep the V chip component in there.

I know that the television industry is lobbying against it. But it is not censorship. It is really about citizenship. It is really about the television industry upholding its responsibility to the community. And it is about empowering parents and viewers generally to at least have some greater opportunity to control what is coming through the television screen into their homes affecting their children and their families. And it may in some sense, in doing that, make it easier for those of us who are viewers to express our opinions by what we are watching and what we are blocking out to the networks that we want better programming. We want programming that better reflects the values of the American people, which too much programming today simply does not.

Mr. President, I want to now focus for a moment on another arena in which this struggle to upgrade the television and to hope that it can do something other than downgrading or degrading our culture and affecting our kids; and that is to call the attention of my colleagues to a significant debate taking place at the Federal Communications Commission about the responsibility of the broadcast television industry to serve the educational needs of America's children.

What has stirred this debate is a ground breaking proposal being advocated by the Commission's Chairman, Reed Hundt, that would require a minimum amount of educational programming each week from each television station in America, 3 hours a week at first, growing ultimately to 5 hours.

Before the FCC closes its public comment period on this subject next week, I want to take this opportunity to share with my colleagues why I believe this issue should be of such concern to us and the FCC and why I am so grateful to Chairman Hundt for taking the initiative here.

I begin, Mr. President, with a little history. Congress has clearly been concerned about the content of television programming for our kids for a long time. Congress acted on that concern in 1990 when we adopted the Children's Television Act of 1990. And passing the legislation—incidentally, it passed with overwhelming, again, bipartisan majorities in both Houses—Congress made an unambiguous statement about television's extraordinary potential as an educational resource and our displeasure at seeing that potential squandered. Congress also made an equally unambiguous statement about the responsibility of the broadcasters as what might be called public fiduciaries in meeting the educational needs of and potentials of our children.

The fact is that the broadcasters have always been required the serve the public interest as a condition of receiving access to the public's airwaves, which is how they transmit to us, over airwaves that we, the public, own.

The report language for the Children's Television Act of 1990 states explicitly that as part of that obligation—I quote —''broadcasters can and indeed must be required to render public service to children.''

To meet that standard, the Children's Television Act set specific goals for the industry. We asked them to increase the number of hours of quality educational programming for children that are on the air. We chose, I think in good faith and wisely, appropriately at the time, not to mandate a set number of hours of programming, instead, to make an appeal through the legislation to the television industry and to hope and trust that they would meet with specific action to broad goals we articulated.

Mr. President, I am sad to say that 5 years later it is clear that that trust has not been vindicated. Not only has there been no noticeable increase in the amount of quality children's programming on the air, but the fact is that the spirit of the act has been trod upon. Some local broadcast outlets have actually made a mockery of the act's requirements by publicly claiming that programs such as the ''Jetsons'' and ''Super Mario Brothers'' are educational. The ''Jetsons'' can be fun, but I would not say that it is educational.

Mr. President, just yesterday The Washington Post reported on a study that was released by Dale Kunkel, a researcher at the University of California in Santa Barbara, that concluded—it was an update of an earlier 1993 report on the broadcasters' compliance with the Children's Television Act. The conclusion was that the law has had little effect on the quantity of educational programs to be found in 48 randomly selected TV stations around the country.

Mr. Kunkel concluded that the vaguely written law allows broadcasters to engage in what he describes as ''creative relabeling'' of programs with dubious educational value. And there he points to stations that have claimed that the beloved, but usually not educational, ''Yogi Bear'' is an educational television program according to the study, and the claim by one station as to ''The Mighty Morphin Power Rangers.''

The researchers found that broadcasters reported airing an average of 3.4 hours per week of educational shows last year, exactly the same amount as reported after the law became effective. But he said that the averages have been inflated by such shows as ''Yogi Bear,'' ''Sonic the Hedgehog,'' ''X-Men'' and other shows, including a Pittsburgh station that put ''America's Funniest Home Videos,'' an enjoyable show but not educational by my standards, into the education category.

Another in Portland, ME, claimed ''Woody Woodpecker'' and ''Bugs Bunny and Friends'' were educational, and five stations listed the ''Biker Mice From Mars'' as educational programs, obviously making a mockery of the intention of the act.

To add insult to the mockery, I would offer this testimony, one recent report that said one station in Cincinnati went so far as to list two Phil Donahue shows as educational to improve its compliance with the Children's Television Act. And the content of those two shows were: The first one on ''Teen-Age Strippers and Their Moms'' and, second, ''Parents Who Allow Teenagers to Have Sex at Home,'' which is part of the normal fare on the daytime television talk shows, a subject for another series of comments in terms of the impact it is having on people who are watching and kids who watch, but surely not educational.

Mr. President, this kind of callous disregard for kids is all too evident in what we are seeing coming over the television screen. As a study by the Center for Media Education detailed a couple years ago, the few educational programs that make it on the air have been too often ''ghettoized,'' you might say, in the early morning hours when few children are watching. Much of the programming that does see the light of day is largely used as a marketing vehicle for the greatest, latest toys. And a number of those action-oriented shows are tinged with what a recent study by the UCLA Center for Communication Policy called sinister combat violence, which as many parents can attest, study after study has shown,

often translates into imitative aggressive behavior.

So let us be painfully candid about what seems to be happening here. Rather than serving the public interests, the industry has too often been serving our kids garbage. And it has an effect on them in our society. We have given the broadcast networks, their affiliates and independent local stations, use of the public airwaves, and they have not used those airwaves well.

Too often our children have been subjected to a diet featuring ever larger helpings of morally questionable programs meant for adults that are appearing at hours when children and families are watching, and children's shows, as my friend, Congressman ED MARKEY of Massachusetts, a leader in this effort, recently said, offer the kids' minds the nutritional value of a twinkie. Congressman MARKEY is right.

In pursuing this path, the broadcasters, I think, are not only ignoring their legal obligations but, in a broader sense, their moral obligations to the larger community to which they belong. Knowing how powerful a median television is and knowing that the average young viewer watches 27 hours a week of television, the people who are running the American television industry, which, in a sense, is our Nation's electronic village, must recognize that they have a greater responsibility to wield their power carefully and constructively.

This all really comes down, Mr. President, to a question of values. What are we saying to our kids and about our kids when we allow them to be subjected to the kind of lowest common denominator trash that they, too often, are forced or choose to watch on television? How can we expect our kids to appreciate the importance of education which parents are trying to convey to them and to recognize the necessity for self-discipline, indeed, sometimes for sacrifice, in order to learn and to improve one's place in life when so much of what is on television treats knowledge as either irrelevant or worthy of disrespect?

I stress the word ''we'' here, because our society, as a whole, I think, shares the blame for the status quo. We have ignored the warnings of people like Newt Minow, Peggy Charren, and dozens of other advocates for kids who have warned us about the impact of what is coming across television has on our children and our society.

I have spoken about this subject before, Mr. President. No one is prepared to say violence on television and in the movies and music and video games is the cause of the ever greater violence in our society. No one is prepared to say that the way in which sexual behavior is treated so casually, without consequence, without warning, without awareness of a sense of responsibility, is the sole cause of some of the moral breakdown in our society, the moral breakdown of families, the outrageous epidemic of babies being born to women unmarried, particularly teenage women. But I cannot help but believe while the treatment of sex and violence on television is not the cause of those two fundamental problems our society is threatened with, it has been a contributor, and, in that sense, we all share some responsibility for making it better, including those at the Federal Communications Commission who have not done as much as they could have up until now and now have the opportunity, thanks to the proposal that Reed Hundt has made to begin a new era.

This proposal would make significant changes in the rules implementing the Children's Television Act, which, taken as a whole, would guarantee that the broadcasters know exactly what is expected of them in terms of meeting their obligations to serve the needs of our kids. The demands are modest; some have even said too modest. They should not put an undue burden on the television industry. Indeed, the FCC proposal proves that this is not an either/or equation, that we can be both sensitive to the educational needs of our children and the economic needs of the broadcast industry.

In drafting these proposals, Chairman Hundt has been guided by the precept that we should do whatever we can to enable the market to work more efficiently. For instance, the proposal would require that each identify what programs are deemed educational and to alert parents about the air time, time in which those shows would be on the air.

Such a requirement should help stimulate demand for more and better children's programming, without putting a hardship on the industry. The new rules would also ask stations to enhance parental access to their children's television reports. This requirement would make it easier for parents rather than the Government to enforce compliance with the law.

In the end, though, I must say that I share Reed Hundt's judgment that regardless of the changes, the market will probably continue to underserve children unless the FCC steps in and explicitly requires a commitment from the broadcast industry to provide some minimal amount of programming every week for our kids.

The competitive pressures seem to be so great in the industry that one broadcast outlet will not unilaterally arm itself with educational programming and risk giving ground to a rival.

So I think the best solution will be to guarantee a level playing field and assure that no broadcaster is put at a disadvantage by offering quality children's programming. This proposal, for a minimum of 3 hours a week educational programming for kids, I think will create that level playing field.

The solution the Commission is considering is more than fair. As Peggy Charren has pointed out, the broadcasters claim they are already airing an average of more than 3 hours a week of educational programming. Assuming that is true, they should have no problem whatsoever in meeting the 3-hour obligation that Chairman Hundt is proposing.

On the other side, if implemented, this proposal will present families, especially those without access to cable, with a real positive alternative to the growing level of offensive and vacuous programming on the air today. In other words, it will give families an oasis in what too often has been the intellectual and moral desert of contemporary television.

That relief is something that parents want. I referred earlier to informal conversations I have had with parents in Connecticut, but to make it somewhat more scientific, in a recent poll, 82 percent of those surveyed said that there is not enough educational programming on television today, and nearly 60 percent supported a minimum requirement of broadcasters to show at least 1 hour a day of enriching programming, in effect, going well beyond the standard that Chairman Hundt is proposing at the FCC.

Like those parents who answered that poll, it is my hope that these new rules will inspire more kids to become, if you will, power thinkers, power builders, power growers instead of Power Rangers.

I was reminded of television's potential as an educational tool in a study released this spring by John Wright of Aletha Huston of the University of Kansas. After working with 250 low-income preschoolers, the researchers found that children who regularly viewed educational programming not only were better prepared for school but actually performed better on verbal and math tests, and that is what this is all about.

The FCC will be making a decision on this proposal probably next month, and the outcome, unfortunately, is uncertain. I hope that my colleagues and members of the public, parents, advocates for children, will let the Federal Communications Commission know where they stand; that we remain in Congress committed to the Children's Television Act and the principle of serving the public interest; that our children deserve something better from television than a choice between ''Dumb and Dumber.''

Mr. President, that concludes my remarks. It strikes me, looking at the Presiding Officer, that I should make clear his years in television only contributed to the well-being and intellectual awareness of those who watched his shows.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 927

Mr. GRASSLEY. Mr. President, I ask unanimous consent that notwithstanding rule XXII of the standing rules of the Senate, Senators have until close of business today to file first-degree amendments to the substitute amendment to H.R. 927, the Cuba Libertad bill, in conjunction with the cloture vote to take place on Tuesday of next week.

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

Mr. GRASSLEY. 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. ASHCROFT. 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. ASHCROFT. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for such time as I may consume.

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

THE AMERICAN PUBLIC'S DISSATISFACTION WITH CONGRESS

r the quorum call be rescinded.

Mr. ASHCROFT. Mr. President, the American public's dissatisfaction with the Congress is again on the rise. The American public's faith in its elected leaders is waning, and I think there are reasons for this disturbing trend.

I think it is because when the people look at Washington, DC, they are beginning again to see what they have seen in years past. They see business as usual. They see politicians putting self-interest first and politics first. They see politicians perhaps then moving to parochial interests or just the interests of a small part of the country. The national interest, it seems, follows somewhere after the special interests. But it takes a long time, as people watch this body deliberate, for them to see us finally get to the national interest. It sees a body in deliberation that finds it very difficult to confront the issues that the people have actually sent us here to confront.

In short, I think the American people see an imperial Congress, a Congress that is perceived to be arrogant and indifferent and out of touch, and seen so because the agenda of the people is accorded a standing which is simply disproportionately low compared to the standing of the political interests, the special interests, the provincial or parochial interests.

I think it is important that we begin again to restate and redemonstrate our commitment to the agenda of the American people. As the people grow in their dissatisfaction, they manifest their disapproval in a number of ways which are clear and apparent.

Approval ratings of Congress are at an all-time low again. We have managed to snatch from the jaws of victory a defeat here. The American people were beginning to think that they could count on us for reform. As a matter of fact, there are a number of substantial reforms which we have undertaken. We have made a commitment to balance the budget in 7 years, and that is important. And we are on track for doing it. That is significantly different than the President of the United States who said he wants to balance the budget in 10 years. But if you look through the smoke and mirrors of those 10 years, you find that they are predicated upon administration figures, and they do not have the integrity or validity of the Congressional Budget Office bipartisan figures that the Congress is using.

It is a shame when we are making that kind of progress, when we are doing welfare reform that is substantial and will make a real difference, when we are addressing major issues, that we again are falling in the approval of the American people. But I think it is because they see some of the endemic, old-time politics as usual rising again to the surface. You see our two-party system being questioned and people talking about a third party and people discussing the potential of independent candidacies with an alarming frequency and with a tremendous—well, it is an alarming array of support. There is a new desire for a third party and a reincarnation again of Ross Perot.

I think we need to demonstrate that, as American people, we are a different kind of Congress, that this Congress which was elected in 1994 is a Congress where our rhetoric is matched by our resolve. It is a Congress where our agenda meets the agenda and the challenges of the American people. It is a Congress where our greatest concern is not losing a vote but losing the faith of the American people.

I think in order to reacquire the confidence of the people we have to be willing again to tackle the toughest issues—issues like the balanced budget and term limits which represent fundamental systemic reform. We now have the opportunity to keep the faith on term limits. We are in the process of making good on our commitment for a balanced budget. But we have an opportunity to keep the faith on term limits. To do so will require courage—not the courage of shying away from fights and delaying votes, but the courage of meeting our challenges and keeping the faith with the American people. We came here to change Washington. We need to ensure that Washington does not change us.

There are lessons to be learned, lessons about how to get things done, about how to be most effective, about how not to spin our wheels, how to take advantage of the rules so we are not dislocated in our efforts for achievement by those who are much more familiar with the process than we are.

But there are things that we do not want to learn here in Washington. We do not want to learn about sacrificing our principles or setting aside the agenda of the American people.

We do not want to learn how to avoid or skirt dealing with the issues for which we were sent here. We do not want to learn to act just for political expedience. Those would be substantial lessons, but they would be lessons which would drive us away from the American people and drive the wedge of insecurity and a lack of confidence between the people and their representatives.

We must always be sure that we are ready to fight for principles, always stand up for what we know is right even if it means losing a vote.

As you well know, Mr. President, I am speaking about our commitment to address the issue of term limits. Why are term limits important? Because they help restore one of the first principles of the American people and the American Republic, and that is representative democracy. Term limits help ensure that there are competitive elections. When incumbents are running for public office, even in years where there is as much revolutionary change as there was in 1994, incumbents win 91 percent of the time. Yes, even in the revolution of 1994, incumbents won 91 percent of elections where they were seeking reelection.

How? Well, they use their biggest perk. That is incumbency. If you look at the data about who raises the most funds and who can just simply blow away the competition, it is the fact that incumbents have the ability to amass these war chests. They obviously have the most easy access to the media. They speak from an official position. And incumbency becomes a perk which is so big that it tilts the playing field. It is unfair to expect that there would be a massive infusion of the will of the people against incumbency, at least few are asking for it in the election, because the incumbents are so inordinately favored with the tools of politics—access to the podium and the resources that are necessary to buy advertising.

We need term limits to help ensure accountability. Individuals who know that they will be returning to their districts or to their home States to live under the very laws that they enact, I believe, will have a different kind of incentive to deal with the public interest rather than the special interests or rather than the provincial interests or rather than the political interests, to deal with the interests of this Nation. The national interests of America would be elevated if we were to embrace the concept of term limits.

Term limits would also help to ensure the right kind of voice of the people in Government by making it possible for new people and new ideas to come here. We need to open the doors of Government to the citizens of this country, and I think having reasonable

term limits would make it possible not only for more people to serve but for groups of people that have previously been unrepresented to have the opportunity for running in elections where there are open seats. Those open seat elections are the kinds of elections that can provide opportunity for newcomers to the process—the minorities, the women who would seek to be candidates.

Incumbency is such an advantage that that tilted playing field, added to the disadvantage of people who do not have a heritage of running for public office, makes their access to public office almost impossible. Term limits would help remedy that problem. We need to return to the concept of a citizen legislature. We need a new respect for ideas that come from the people, not from the power. When we allow the voice of the people to be heard, we will really again begin to see a restoration of the public confidence in American Government.

Now, the problem of term limits and the enactment of term limits is a significant one, and it is compounded by the events of recent days. Last year, the executive branch, the Clinton administration, sent its lawyers from the Justice Department into court to argue in the Thornton case against the right of States to impose term limits on Members of Congress. So the executive branch has clearly stated—at least the Clinton administration has—that it is against the right of the people as expressed in 23 of the States already that tried to impose term limits on their States and on their State's representatives to the Congress. The Clinton administration has said that door is slammed shut. The executive branch opposes that, went to court, and argued in the Supreme Court against it.

The people know that there are three branches of Government, and they looked to the judicial branch, they looked to the Supreme Court until last spring when the Supreme Court again slammed the door of self-government in their faces, saying you do not have a right in your State to say how long any individual would be eligible for service in the U.S. Congress. It is not up to you. We know better than you here in Washington. We will slam that door shut.

Having exhausted the potential of the executive branch and having experienced the disappointment of a ruling in the judicial branch, the people of America, seeking a branch of Government confident in the voice of the people, confident in wanting to recognize the inputs of people, wanting to swing wide the door of self-government rather than to hold it shut, the people of America are looking now to the Congress, the House of Representatives and the Senate.

Earlier in the year, we scheduled that on this day and the day preceding—yesterday—we would devote these 2 days to a debate of term limits and a vote on term limits. It would be the first time in history that we would have done so, and we would have been able to vote on an amendment that passed out of the Judiciary Committee.

That amendment was passed out not only with a majority but with a bipartisan majority and sent to the floor of this Senate for consideration, and, well, we are simply not debating that. As a response to our change in plans, I simply do not want us to avoid confronting this issue that the American people expect us to confront.

Will we win a vote? Since the Thornton case, where the State of Arkansas's laws were struck down by the Supreme Court, it means that we will have to have 67 votes in order to win enough support for a constitutional amendment in this Chamber and two-thirds, of course, in the House of Representatives. Frankly, that is unlikely. But that does not mean we should not begin. And the American people deserve a vote on this issue because we promised them we would give them a vote on this issue and because they deserve a vote on this issue to identify who the supporters are and who the supporters are not.

Seventy-four percent of the people of this country registered their approval for term limits; 23 States have actually tried to enact them on a State-by-State basis in spite of the fact that the Supreme Court has said it cannot be done, and two additional States will be voting on term limits in the South in the next couple weeks.

I think it is time for us Members of the Senate to respond to our own commitment to have a vote on term limits, and that is why I have offered an amendment to this measure which is now being considered on our relationship to our neighbor to the south, to Cuba, and saying we need a sense of the Senate providing a marker for every Member of this body to cast a ballot either in favor of term limits or against term limits. I look forward to a vote on that amendment. I look forward to a vote on that amendment in the near future, a vote that will not be binding, no, because it is just a sense of the Senate—not binding, but it will be revealing, a vote that will finally allow the American people to know where Senators stand on this very important issue.

I believe term limits provides an opportunity for us to justifiably regain the confidence of the American people because a vote on term limits is something we promised the American people. It is something we should deliver, not just because we promised it but because the people of America want it. It is a part of the agenda of the American people and as such it must be a part of the agenda of the Senate.

Mr. President, I thank the Chair for this opportunity, and I yield the floor.

Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask that further proceedings under the quorum call be dispensed with.

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

FRAUD IN THE MEDICARE SYSTEM

Mr. HARKIN. Mr. President, I could not believe my eyes this morning when I opened up the front page of the newspaper. And here is the headline, Mr. President: ''Gingrich places low priority on Medicare crooks, defends cutting anti-fraud defenses.''

Well, what is this all about, Mr. President? Well, what it is about is the House bill, the House bill on Medicare reform, which I think ought to be titled, ''The Scam Artist Protection Act.'' But, Mr. President, do not take my word for it. Here is a letter dated September 29 from the inspector general's office of the Department of Health and Human Services.

It says:

> However, if enacted, certain major provisions of H.R. 2389—

The House bill.

> would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

''Would cripple their efforts.'' And so the Speaker yesterday says, ''It is all right. No big deal.'' He said that it is more important to lock up murderers and rapists than dishonest doctors. Well, it is important to lock up murderers and rapists. You bet it is. But what does that have to do with Medicare fraud? Talk about using a logic that just about takes all right there.

But even more astounding is this quote attributed to the Speaker. When he was pressed on it, he said that they might be willing to negotiate on it. He said—this is a quote attributed to the Speaker—''We can be talked out of it if there is enough public pressure.''

I will repeat that:

> We can be talked out of it if there is enough public pressure.

Talked out of what? Talked out of easing the antifraud measures that we now have in the law?

I think in that statement is a tacit acknowledgment by the Speaker that they are, indeed, opening the doors to more fraud and abuse in Medicare. But he said if there is enough public pressure, we can change it.

If we can slip it through in the dark of night, if we can do it behind closed doors, if we can ram it through in a hurry and the public does not know about it, we will do it. But if the public finds out about it and they put pressure on us, well then, we will change it.

Mr. President, I am here to start putting pressure on us. The public ought to put pressure on us, because what has been happening in Medicare is billions of dollars in proportion. The ripoffs, the fraud, the waste and abuse is ongoing and getting worse instead of better,

and the few minimal laws that we have that permit the inspector general's office to go after the crooks in Medicare are now being weakened in the House bill and the inspector general said so. She said it would cripple the efforts of law enforcement agencies to control health care fraud and abuse.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated September 29 from the inspector general's office outlining the provisions in the House bill that would, indeed, cripple their efforts.

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

DEPARTMENT OF HEALTH & HUMAN SERVICES,
Washington, DC, September 29, 1995.

Re H.R. 2389: ''Safeguarding Medicare Integrity Act of 1995.''

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the ''Medicare Preservation Act.'' We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the ''knows or should know'' standard for the mental element of the offense, Congress chose a standard which is well defined in the Restatement of Torts, Second, Section 12. The term ''should know'' places a duty on health care providers to use ''reasonable diligence'' to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the ''should know'' standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term ''should know'' in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with ''deliberate ignorance'' of false claims or if they act with ''reckless disregard'' of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use ''reasonable diligence'' to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which may be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTI-KICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT ''THE SIGNIFICANT'' INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc. paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that ''the significant purpose'' of a payment was to induce referrals of business. The phrase ''the significant'' implies there can only be one ''significant'' purpose of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, if enacted it would threaten the Government's ability to prosecute all but the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration ''if one purpose of the payment was to induce referrals.'' United States v. Greber, 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: United States v. Kats, 871 F.2d 105, 108 (1989); United States v. Bay State Ambulance, 874 F.2d 20, 29–30 (1st. Cir. 1989). The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny. to prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. The difficulties of establishing intent are multiplied by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most kickback scheme participants. Documents are ''pre-sanitized'' by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was ''the significant'' reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more ''legitimate purposes.'' For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to qualify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was ''the significant'' reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place an insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kickback statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for ''any capitation, risk-sharing, or disease management program.'' The lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is ''risk-sharing?'' Is not any insurance a form of risk sharing? What is a ''disease management program?'' Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape kickback liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: that Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is not shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare, and give large discounts on items not separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a ''combination'' discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a ''free'' adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissible for a supplier to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive less of a discount than other items in the combination, Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ), and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue ''safe harbor'' regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100–93.

To date, the OIG has issued 13 final anti-kickback ''safe harbor'' rules and solicited comment on 8 additional proposed safe harbor rules, for a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general ''fraud alerts'' describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal. HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act, as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requestors a user fee, but there is not provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it would be impossible for HHS to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor's own intent. Obviously, the requester already knows what their intent is.

None of the 11 existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor's intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory process in H.R. 2389 would severely hamper the Government's ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the dependent read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollars devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to

the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a ''bounty.'' The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would ''foot the bill.''

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for ''soft'' claims review, such as, medical and utilization review, audits of cost reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These ''soft'' review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 will not result in any more Medicare convictions and sanctions.

* * * * *

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable diligence to ensure that the claims they submit are true and accurate; this is the effect of increasing the Government's burden of proof in civil monetary penalty cases;

Substantially increase the Government's burden of proof in anti-kickback cases;

Create new exemptions to the anti-kickback statute which could readily be exploited by those who wish to pay rewards to physicians for referrals of patients;

Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law; since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts; all the monies would be used by private contractors only for ''soft'' payment review and education functions.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

Mr. HARKIN. Mr. President, over the last several years when I was Chair of the Subcommittee on Appropriations that funded HCFA and Medicare, we held a series of hearings, and I requested GAO to do a number of studies on waste, fraud, and abuse in the Medicare system.

What we have uncovered is mind boggling: HCFA paying for 240 yards of tape per person per day—Medicare paying that. Medicare paying over some $200 for a blood glucose tester that you can buy down at Kmart for $49.99. Medicare is paying thousands of dollars for devices that only cost $100. Foam cushions that cost about $50 that Medicare is paying $880 each for.

The list goes on and on and on, and we know it is happening out there. We know how medical suppliers are scamming the system, double billing going on. We have documentation. GAO has documented this in the past.

Last year, I asked the GAO to do a study just on medical supplies—just on medical supplies. They started their study in about May or June 1994, and the study was completed in August of this year. They issued their report.

GAO went to Medicare and said, ''We want to take a representative sample of bills that you have paid for medical supplies.''

You have to understand, Mr. President, that when Medicare pays a bill for medical supplies, they do not even know what they are paying for, because all of the supplies are put under one code, 270. So Medicare pays a bill, code 270, medical supplies, $20,000. They have no idea what is in there, because they do not require it to be itemized. Imagine that.

So GAO went to Medicare, got a representative sample, went behind the code to the suppliers, to the nursing homes, to the hospitals and said, ''OK, we want the itemized account.''

Guess what they found? Now this will knock your socks off. They found that that 89 percent—89 percent—of the claims should have been totally or partially denied; 61 percent of the money spent should never have been paid out—61 percent.

Then you ask the question: How much did Medicare pay last year for medical supplies? The answer, $6.8 billion. If you can extrapolate from this sample and say that 61 percent of that money should not have been paid out, you are talking about $4 billion—$4 billion. Maybe we cannot get it all, but could we get $3 billion? I bet we could. How about even $2 billion? We ought to be able to save that. Multiply that over 7 years, which is what we are talking about here, and you can see that is a pretty good chunk of money. And that is just medical supplies, that is just tape and bandages, things like that. We are not even talking about durable medical equipment. We are not talking about the double billing that goes on. That is just one, just medical supplies. It does not include oxygen, and it does not include ambulances, orthotic devices. It does not include durable medical equipment. It is just the bandages, $6.8 billion, and 61 percent should not have been paid.

A lot of this is fraud. A lot of it comes about because scam artists know that they can game the system.

Why would they do that? Are there not enough penalties? Would they not be afraid of getting caught? The fact is that in 24 States, the inspector general's office does not even have a presence. They are not even in 24 States.

Right now, Medicare reviews about 5 percent of the claims. So if you want to scam the system, you want to put in fraudulent claims, your chances are 5 percent that you are even going to be reviewed, and out of the reviews, they may or may not do something based upon that. If you are in one of the 24 States where there is not an inspector general operating, the sky is the limit.

That is why fraud is so rampant in the Medicare system today. What the Speaker says is that is fine, that is a low priority. We do have some anti-fraud legislation on the books, as inadequate as it is right now. The House bill weakens it even further, and the Speaker says that is fine, but he says if the public catches on to it and they put on enough pressure, maybe we will change it.

I hope the public does put on the pressure, because we do have to change it. The House will say, well, they put more money into the IG's office, they put $100 million into the inspector general's office. So you give more money into the inspector general, then you put the handcuffs on it by making it so they cannot prove fraud. That is exactly what they have done.

Mr. President, we have to not put waste, fraud, and abuse in the back seat, we ought to put it in the front seat. We have to attack that. I do not think it is right, I do not think it is fair for this Congress, for the Speaker of the House to say, ''OK, we're going to double your premiums for the elderly, we're going to double your deductibles, but we're going to let the crooks go, we're not going to crack down on them.''

Oh, yeah, from what I read, they are going to let the doctors off, too. They are not going to have to belly up to the bar.

One other item before I finish on fraud. I have another report from the inspector general's office issued just this month in October. Here is what they found: 13 percent of nursing homes have been offered inducements in exchange for allowing suppliers to provide products to patients in their facilities; 17 percent of nursing homes with Medicare-reimbursed products have been offered these inducements. The inducements range from free trial products to cameras, blenders, and diamond rings. Fraud, and yet the Speaker says it is too tough the way it is, we have to make it even less tough. We have to ease up. One other thing, Mr. President, that has disturbed me, came to my attention in the last 24 hours. It has to do with the block granting of Medicaid to the States. The Finance Committee—the Senate Finance Committee, of which I am not a member, but I follow closely what it has done—adopted an amendment offered by a Republican, Senator CHAFEE, that says, OK, if you block grant it to the States,

we still want to have some guarantees. What do we want to guarantee? We want to guarantee that pregnant women who fall under the poverty line get medical help under Medicaid; we want to guarantee that all children under the age of 12 get Medicaid medical help; we want to guarantee that all disabled continue to get medical help, as they are today. Plus, they want to guarantee that we continue the provisions in law that provide that a spouse does not have to spend all of his or her money down to nothing and give up their income before Medicaid will start paying for their spouse's long-term care in a nursing home. It is called the spousal impoverishment provision. It says you cannot impoverish a spouse simply because his or her husband or wife is in a nursing home. What does it say? It says basically that, minimum, a spouse can keep, I think, a little over $14,000 in assets and can make a little over $1,200 a month.

Now, in my view, if a couple saved up all of their lives and they have $50,000 in the bank, and one spouse gets Alzheimer's and cannot be cared for and has to go to a nursing home and the other spouse has to spend that $50,000 until they get to $14,000 and then Medicaid will kick in and start paying, that $14,000 is not a lot of money to have in the bank for a rainy day when you are getting old.

So these provisions were left in the Senate-passed Finance Committee bill. It passed, as I understand, by a vote of 17 to 3. I picked up this publication, the National Journal of Congress, dated Friday, October 13, this morning. Here is what it says:

> ''Thursday, Senator Jay Rockefeller said GOP leaders were trying to undo a compromise that preserved the disabled's right to Medicaid,'' the Associated Press reported. Rockefeller and Senator John Chafee won a 17 to 3 Finance panel vote to keep the Medicaid entitlement for poor children and pregnant women, as well as the disabled. But GOP Governors have protested overly prescriptive and onerous provisions in the bill. Roth said Thursday evening, ''It is a matter that is still open.''
>
> The AP said, ''Sheila Burke, Dole's Chief of Staff, told reporters, ''The disabled will not be an entitlement.'' Chafee and six other moderates wrote Dole, asking him to ''stand fast in your support for at least a minimal level of support provided to our Nation's most vulnerable populations.''

Mr. President, I hope this is not true. I hope this is not true that now the Republicans on the Senate Finance Committee are going to throw out the disabled in our country, that they are going to say, OK, all right, we will keep pregnant women in and children up to age 12, but the disabled, you are out the door, you are not entitled to be covered, we are not going to guarantee you coverage—the most vulnerable of our population, those who are disabled.

Mr. President, here is another thing I cannot believe. We got a letter the other day, sent to Senator DOLE on October 6, signed by 24 Republican Governors, saying that they wanted the block granting of the Medicaid bill. They supported that, but they said there are some things they do not like.

I will read this from the letter of 24 Republican Governors:

> The bill includes a number of overly prescriptive and onerous provisions that will mitigate against the States' ability to implement reforms.

What are those onerous provisions? They are that the Senate Finance Committee, by a vote of 17 to 3, on a bipartisan basis, said you have to cover pregnant women who fall under the poverty line with medical care, you have to provide for children to age 12 who are in poverty, you have to cover the disabled, and you have to have provide against espousal impoverishment. The Republican Governors said that is onerous.

I have to ask this, Mr. President. These Governors have said, ''Turn Medicaid over to the States. We will take care of it better than the Federal Government can take care of it.'' What makes you think that these Republican Governors do not care for the disabled, poor, and the women as much as Congress? Well, they cannot have it both ways. If these Republican Governors say they do not want these provisions in there that mandate that they continue to cover the disabled, then are they then saying they want to have the freedom to throw the disabled out? If the Republican Governors are saying they do not want the provision in there that says we will ensure against spousal impoverishment, are they then saying that they, the Republican Governors, are willing to throw that out?

Well, if they are not saying that and if the Republican Governors are saying, oh, no, no, no, no, we will make sure we keep provisions against spousal impoverishment, we will cover the disabled, pregnant women, and the children, why do they care if it is in there? You cannot have it both ways.

These Republican Governors have shown their hand. If we turn Medicaid over to the States without these provisions, they are going to go cut the disabled, pregnant women, children, and cut back on the provisions against spousal impoverishment. It is right here in this letter, signed by 24 Republican Governors.

So I think it is becoming clearer as the days roll by, Mr. President, that on the Medicare side, the Speaker and the GOP are turning a blind eye to the concerns of seniors. But they are giving a wink and a nod to the Medicare crooks.

When it comes to Medicare, Mr. GINGRICH and his allies are willing to tell the seniors they have to pay more, double their premiums, double their deductibles. They want to take $270 billion out of Medicare and use it for a tax cut for some of the most privileged in our society. Yet, they are not willing to crack down on those that are scamming the system, bilking the system of billions of dollars a year. Oh, no, we do not want to do that. Well, I think the public ought to know about it. I think the public is becoming aware of it, Mr. President. I think the public is now beginning to wake up to the fact that we do not need to cut $270 billion out of Medicare.

The head of Medicare said that maybe $90 billion would get us through the next 10 years; $90 billion would provide for the security of the Medicare system through 2006. Think about that. GAO said that 10 percent of Medicare goes for waste, fraud, and abuse. That is about $18 billion a year. Well, $18 billion a year for 7 years is $126 billion, which, over the next 7 years, will go for waste, fraud, and abuse. If we cannot get all the $126 billion, can we get $90 billion of it? We might be able to squeeze enough out of waste, fraud, and abuse to ensure the viability of Medicare at least for the next 10 years. But, no, Republicans say, though, they want $270 billion out of Medicare. Sock it to the seniors, make them pay double for premiums, double for deductibles, and then they will take that money and give a $245 billion tax cut for the most privileged in our society. Not fair, not right. I think the people and the public are beginning to understand that.

Now, on the Medicaid side, $187 billion of cuts in Medicaid and then block granted to the States. I think the Senate Finance Committee cast a conscientious vote last week when they said, ''Look, we will block grant to the States but we want to make sure that we cover all pregnant women who are eligible for Medicaid, all children who are eligible for Medicaid, and the disabled.''

Now, I understand that they are willing to throw out the disabled. That is unconscionable—unconscionable that some would be willing to throw out the disabled to say that, ''No, we are not going to cover you. You just go plead your case in the States. Go to the Governors.'' Well, the Governors told us what they wanted to do in their letter. They found those provisions onerous.

Mr. President, it is becoming clearer, in Medicare it is the seniors who get hit. In Medicaid, it is the poor.

Here it is right here in contrast, Wednesday, October 11, the Washington Post. Here it is. This is it, right here. Two stories, side by side, that tell it all.

On the right hand side, it says: ''Leaders Pledge Full Tax Cut By Senate GOP.'' Full $245 billion tax cut. ''Leaders Pledge Full Tax Cut By Senate GOP.'' The story right next to it: ''Working Poor May Pay the High Price for Reform.''

There you go. It cannot be said any better than that.

In Medicare, the disabled, if you are disabled, forget it. You will not have any protections. We throw you out.

Well, I hope that is a wrong report. I hope everything I have said here today will prove not to be so. I hope that the Senate Finance Committee will not jettison the most vulnerable in our society, the disabled. If they do, if that is what comes here to the Senate floor,

that we have a Medicaid bill—I do not care how it is wrapped up. If it is wrapped up in reconciliation, as you know, we cannot filibuster that under the rules. But if they jettison the disabled, I hope and trust that President Clinton will veto that the second it lands on his desk and say to this country that we are not going to make the most vulnerable in our society, those who have disabilities, pay for the $245 billion tax cut for the most privileged in our society.

I yield the floor.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Times]

GINGRICH PLACES LOW PRIORITY ON MEDICARE CROOKS

DEFENDS CUTTING ANTI-FRAUD DEFENSES

(By Nancy E. Roman)

House Speaker Newt Gingrich yesterday defended GOP moves to reduce penalties and enforcement efforts against Medicare fraud by saying it's more important to lock up murderers and rapists than dishonest doctors.

The Georgia Republican cited ''murderers out after three years'' and ''rapists who don't even get tried'' in response to a question at a seniors gathering to promote the GOP Medicare overhaul. ''For the moment, I'd rather lock up the murderers, the rapists and the drug dealers,'' he said. ''Once we start getting some vacant jail space, I'd be glad to look at it.''

The GOP bill in the House would weaken laws against kickbacks and self-referrals in the Medicare program. The Congressional Budget Office has estimated the seven-year cost of relaxing those laws to be $1.1 billion.

Gerald M. Stern, special counsel for health care fraud at the Justice Department, said one provision would overturn a common interpretation of Medicare anti-kickback case law and increase the burden of proof in criminal prosecutions.

Rep. Pete Stark, the California Democrat who drafted the anti-kickback and self-referral statutes, called Mr. Gingrich's comments ''arrogant and gratuitous.''

''To put O.J. Simpson, the Menendez brothers and Claus von Bulow in the same category as physicians who get kickbacks and who steal from the government is not the issue,'' Mr. Stark said. ''Republicans are in the position of having weakened protections that we put in [Medicare law] at the urging of the Reagan and Bush administration.''

Mr. Stark said Republicans weakened the provisions to shore up support from the American Medical Association, a wealthy lobby representing 300,000 doctors.

Rep. Tom Coburn, Oklahoma Republican and obstetrician who helped draft the new anti-kickback provisions, said the changes simply would put medical professionals on equal footing with other professionals subject to such laws.

Courts have interpreted the Medicare anti-kickback law to prohibit a payment if ''one purpose'' of it is to induce referrals of services paid for by Medicare.

The GOP bill would change that to ''the significant purpose,'' which Mr. Stern and others said is much harder to prove in court. Under this standard, he said, the government would not have won two big cases this year that led to fines of hundreds of millions of dollars.

Kern Smith, an assistant commerce secretary under Presidents Johnson and Kennedy, posed the question about lighter fraud rules to Mr. Gingrich at a forum sponsored by the Coalition to Save Medicare, a group backing the GOP reforms.

The 73-year-old Democrat said he's gone ''around the country selling your plan'' but found seniors vexed by the new fraud rules. He said they were hard to defend.

''I've been around Washington for a long time, and you are giving the Democrats something to clobber you with,'' Mr. Smith said.

Mr. Gingrich said Republicans are willing to negotiate on fraud and abuse provisions, leaving open the possibility of the bill being changed on the House floor.

''We can be talked out of it if there is enough public pressure,'' he said.

A senior House aide yesterday said the legal standard in the anti-kickback law was changed to make it consistent with other such laws ''without a lot of thought, and it is something that could be changed.''

Republicans spent much of the summer discussing Medicare changes with seniors, and many found that fraud topped constituents' complaints. Many seniors erroneously thought eliminating fraud and abuse could solve Medicare's money woes.

Republicans have created other ways to reduce fraud, such as: allowing seniors to keep a portion of money recovered from fraud cases they report; establishing a voluntary disclosure program for corporate managers who uncover wrongdoing in their companies; and increasing the maximum civil penalties for health care fraud.

The CBO estimates that these changes would save $2 billion over seven years.

Democrats support some of these changes but argue that relaxing kickback and self-referral laws would undermine the success achieved in reducing Medicare fraud.

After Democrats upbraided Republicans for going soft on fraud, the House Ways and Means Committee added $100 million to the budget of the Inspector General's Office to prosecute fraud and abuse. The CBO estimates that the additional money would produce $700 million more in Medicare fraud fines.

Rep. Sam M. Gibbons of Florida, ranking Democrat on the Ways and Means Committee, said it will be difficult to block the softer fraud rules without public outcry.

''The Republicans are all marching in lock step,'' Mr. Gibbons said. ''In my lifetime I've never seen anybody march in lock step like this.''

Mr. HARKIN. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

REPUBLICAN GOVERNORS ASSOCIATION,
Washington, DC, October 6, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Capitol Building, Washington, DC.

DEAR SENATOR DOLE: Collectively we desire to express our gratitude for the working relationship with you and Republican governors. We share your commitment to balancing the budget and returning responsibilities to the states. Your leadership on these matters is acknowledged and admired. We are writing to you to convey our deep concern with provisions that were included in the Medicaid portion of the reconciliation bill approved by the Senate Finance Committee on September 30.

Since January of this year, Republican governors have worked in good faith with Republican leadership on concepts to bring meaningful, urgently needed reforms to the Medicaid program while achieving the Congressional budget targets. As governors representing the unique needs of our individual states, we have not been in total agreement on all aspects of the program. However, throughout this lengthy partnership, we have consistently argued that the fiscal and functional integrity of the program demand freedom from individual and provider entitlements and other mandates on states. The Senate Finance Committee bill ignores this principle.

The bill includes a number of overly prescriptive and onerous provisions that will militate against the states ability to implement reforms. Among these are individual entitlements, which create both a huge potential cost shift to states and unlimited potential for litigation; a set-aside for one class of providers; and mandated federal requirements on spousal asset protection.

Further, we are concerned that the bill reported out by the Senate Finance Committee will be amended on the Senate floor with additional mandates on states. While we support efforts to reduce the deficit and balance the federal budget we will not sit idly by while the costs associated with this program are shifted to the states.

We have kept our commitments to Republican leadership throughout a difficult process of negotiating reforms that states can implement, while protecting the interests of all of our citizens. We are fully prepared to provide health care for our most vulnerable populations, without prescriptions and mandates from the federal government. We are pleased with the flexibility provisions incorporated in the House measure and intend to work for inclusion of such provisions in the final bill.

We are hopeful that we can work with the Senate leadership on this most important issue. We urge you to remove mandates and other prescriptive provisions from the Senate bill.

It is our sincere hope that we can resolve these issues quickly. As those charged with the actual administration of these programs, we cannot support a combination of individual entitlements and mandate provisions that will subject us to unlimited ligation, and still meet the budget targets.

Sincerely,

Michael O. Leavitt, Bill Weld, Fife Symington, John G. Roland, Christine T. Whitman, John Engler, Marc Racicot, Gary E. Johnson, George V. Voinovich, Frank Keating, William J. Janklow, George Allen, Jim Edgar, Fob James, Jr., Pete Wilson, Phil Batt, Terry E. Branstad, Kirk Fordice, Stephen Merrill, Edward T. Schafer, Tommy G. Thompson, David M. Beasly, George Bush, Jim Geringler.

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

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

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, every day since February 1992, I have reported to the Senate the exact total of the Federal debt, down to the penny, as

of the close of business of the previous day, or on Mondays it would be, of course, for the previous Friday.

As of the close of business yesterday, October 12, the Federal debt stood at $4,972,685,593,071.75. And this figure is approximately $27 billion away from $5 trillion which the Federal Government will surpass later this year or early next year. On a per capita basis, every man, woman and child in America owes $18,876.40, as is his or her share of that debt.

No wonder babies come into this world crying.

THE NOMINATION OF JIM SASSER TO SERVE AS UNITED STATES AMBASSADOR TO MAINLAND CHINA

Mr. HELMS. Mr. President, on another subject, with varying frequency all Senators occasionally find themselves in the predicament of having to be in two places or more at one time. Generally, the problem can be resolved by dividing time between conflicting responsibilities. This happened to me yesterday, when the distinguished former Senator from Tennessee, Jim Sasser, appeared before the Foreign Relations Committee, having been scheduled a week or so earlier in connection with his nomination by President Clinton to serve as United States. Ambassador to mainland China, which calls itself the People's Republic of China. If ever there was a misnomer, that is it.

In any case, the hearing had been set several days ago for 10 a.m. yesterday morning.

On Wednesday evening, the distinguished majority leader and the distinguished minority leader of the Senate scheduled the Cuba Libertad bill to be the pending business of the Senate at 11 a.m. yesterday. This kind of scheduling happens to all Senators with a high degree of frequency, as I say. And all of us understand that it is endemic to Senate procedure.

Yesterday morning I knew it would be a tight fit to handle both responsibilities, but I had many times done it before. But yesterday it did not turn out quite that way.

In any event, in my opening statement as chairman of the Senate Foreign Relations Committee I wanted to say some positive things about former Senator Sasser's nomination to be Ambassador to Communist China. So, midway through my brief remarks I commented, and I quote myself:

When Jim was nominated, I was especially pleased to learn that the President had nominated a gentleman who hasn't always been that easy on the Communists in Beijing.

When Mr. Sasser was in the Senate, in fact, he and I often agreed on our respective approaches to China.

Between 1988 and 1994 Senator Sasser voted six times to condition the renewal of most-favored-nation trading status for China until the Chinese made significant progress on human rights. He helped override President Bush's veto of the legislation prohibiting the President from extending MFN until the Chinese cleaned up their act after the massacre of 1989.

I commend Senator Sasser for standing firm.

In his capacity as Senator from Tennessee, Jim Sasser voted to impose some of the very sanctions against China that many U.S. businessmen now actively seek to relax—for example, the suspension of the operations in China by the Overseas Private Investment Corporation. Senator Sasser supported restrictions on the transfer of nuclear equipment, materials, or technology to China unless specific conditions were met. These were hard, tough issues and Senator Sasser chose the right way every time. I hope he will continue to stick by his principles in making the decisions he will have to make as Ambassador Sasser.

Now that he has been nominated to represent the President and the executive branch, I trust he will understand, encourage, and support the congressional role in the formulation and adaptation of the United States foreign policy toward China, Taiwan, and Tibet.

That was the statement I made yesterday at the hearing.

Now, then, I am getting to the point. Mr. President, I ask unanimous consent that the full text of a letter I have this afternoon faxed to Senator Sasser be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 13, 1995.

Hon. JIM SASSER,
Ambassador Nominate to the People's Republic of China, U.S. Department of State, Washington, DC.

DEAR JIM: It was unfortunate that circumstances yesterday required that I depart from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

Your comments on two matters after I departed left two significant additional matters that I feel obliged to have you discuss further in a second public hearing on your nomination.

They are: (1) Your comment after I had departed, to the effect that you ''corrected the record'' (according to media reports) by testifying that you had become ''less and less convinced'' that it was correct to link trade with China to human rights, and (2) your comments relating to China's threat to disband Hong Kong's Legislative Council.

It need not be a lengthy hearing but I believe it essential that there be one. Accordingly, I am asking Admiral Nance and his staff to work with you and the State Department in scheduling your appearance at the most mutually agreeable date and time.

It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

Sincerely,

JESSE HELMS.

Mr. HELMS. Let me read the letter.

Dear JIM: It was unfortunate that circumstances yesterday required that I depart from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

Your comments on two matters after I departed left two significant additional matters that I feel obliged to have you discuss further in a second public hearing on your nomination.

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It need not be a lengthy hearing but I believe it essential that there be one. Accordingly, I am asking Admiral Nance and his staff to work with you and the State Department in scheduling your appearance at the most mutually agreeable date and time.

It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

When I made my statement, my positive statement, regarding the Sasser nomination, and identified the six votes that Senator Sasser as a Senator had cast correctly, he nodded. It never dawned on me that he was going to correct the record after I left the hearing. If he had made any indication of what he was going to do, I would have called the Senate floor and said I will be delayed in getting there, because it is time that the American people, and particularly those of us who say we represent the American people, understand that we become a part of what we condone. For us to condone what is going on in Red China is to be a part of it. And that is the reason I want to hear further from Senator Sasser, about his nomination to be Ambassador to Communist China—which they call the People's Republic of China.

Mr. President, yesterday's comments by Mr. Sasser relating to the administration's position on China's threat to disband and abolish the Hong Kong Legislative Council deserves a bit more comment as well. I do not challenge the opinion expressed by Mr. Sasser on behalf of the administration regarding this action by China. I want to emphasize, however, that China is sweeping away every vestige of democracy in Hong Kong. It is a matter that deserves somewhat more detailed understanding by Americans of precisely what is at stake in Hong Kong.

Therefore, Mr. President, I ask unanimous consent that a front page article of the South China Morning Post faxed to me from Hong Kong be printed in the RECORD.

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

[From the South China Morning Post, Oct. 13, 1995]

U.S. NOMINEE SAYS CHINA HAS RIGHT TO DISBAND LEGCO

(By Simon Beck)

The nominee to become U.S. Ambassador to China last night appeared to side with Beijing one the Hong Kong question, saying China was not required to keep the Legislative Council in place after 1997.

Even though former senator James Sasser said he hoped China would not carry out its threat to abolish Legco, his remarks at this sensitive time are certain to be viewed with alarm.

Until now, successive administrations have lent strong support to widening the democratic franchise in the territory. Governor Chris Patten was praised for his brave stand in going ahead with his reforms in the face of violent opposition from Beijing, Democratic Party leader Martin Lee Chu-ming was recently feted in the U.S. and awarded the American Bar Association Human Rights Award.

But speaking at his Senate confirmation hearing late last night, Mr. Sasser said: ''Governor Patten has sought to 'enlarge it' [the 1984 Joint Declaration] to some extent by his encouragement of the democratic movement in Hong Kong.

''The Chinese have indicated that they are not going to abide by this democratic election of legislative councillors, and clearly by the covenant of 1984, they are not required to. But I am hopeful they will reconsider that.''

His comments appeared to conflict with the passion in the US for supporting the continuation of Hong Kong's rights and freedoms after 1997.

In June, senators joined senior officials in declaring US determination to stay deeply involved in the future of the territory.

China came under fire from all sides for blocking the Court of Final Appeal and for vowing to dismantle the Legislative Council.

Assistant Secretary of State Winslow Lord said the Legco issue had caused great concern to Washington and warned that apparent moves by China to put pressure on civil servants were ''making many in the career rank uncomfortable at a time when Beijing should instead be reassuring them''.

Former US attorney-general Dick Thornburgh said China ''has signalled its intention to renege on virtually all of the guarantees it made to preserve Hong Kong's legal system and the rule of law''.

He said he was troubled by the lack of attention that Hong Kong and its people were receiving despite the gravity of the developments taking place in the territory.

Beijing has warned Britain not to ''internationalise'' the Hong Kong issue and the US not to interfere in China's internal affairs.

Foreign Relations Committee chairman Senator Jesse Helms, a staunch critic of China, promised to ''expedite'' Mr. Sasser's confirmation for the Beijing job.

A vote could come within one week at which Mr. Sasser is expected to be easily confirmed.

Mr. Sasser vowed to push for human rights improvements in China, stick firmly to the United States' one-China policy and promote US trade with Beijing.

Mr. Sasser told senators: ''Some people say China needs us more than we need China. The reality is that China and the United States need each other.''

Asked by several senators how he would handle Tibet and other human rights issues, he replied: ''I intend at every appropriate occasion and on occasions when it might not seem appropriate to make the views of the administration known in this regard.

''The American people expect the Chinese Government to respect the human rights of its own citizens.''

The White House made a symbolic gesture of support for its nominee, by sending Vice-President Al Gore to urge the committee to support Mr. Sasser, whom he described ''a man of stature, wisdom and authority''.

Mr. Sasser, who when he was a senator voted six times to link China's trading status to human rights, said he had changed his mind and now believed that trading with China was the best way to encourage freedom and democracy in that country.

On Taiwan, he defended the administration's one-China policy.

If he is confirmed before October 24, Mr. Sasser said he hoped to take part in the summit meeting in New York between presidents Jiang Zemin and Bill Clinton.

The only question as to Mr. Sasser's competence in the job was raised by Senator Craig Thomas, who pointed out that the past five ambassadors were career diplomats with much China experience, and not political appointees like Mr. Sasser.

However, Mr. Sasser, a Democrat who lost his Senate seat last year, said he had spent recent months studying Chinese language and politics at Harvard University and the Foreign Service Institute.

Mr. HELMS. I thank the Chair. I apologize for keeping the Senate in session a little bit longer than would otherwise have been the case.

I yield the floor.

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

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

THE LIBERTAD BILL

Mr. COVERDELL. Mr. President, first I would like to commend the Presiding Officer, the chairman of the Foreign Relations Committee, for the attention and dedication to the legislation that is pending before the Senate, the Libertad bill which deals with the notorious dictator and the oppression that has occurred for over three decades over the people in Cuba, and for your attempts to address those vital issues.

As you know, Mr. President, I spoke on that yesterday in support of your effort with particular emphasis on the abrogation of property rights. This has been something that has bothered me, not only in Cuba but in Nicaragua and other countries in the hemisphere, and I think the President is doing exemplary service, not only for our citizens, but citizens around the world in confronting the issue of the confiscation of property in our world today, and without compensation and without appropriate redress.

So I compliment the Chair.

THE FISCAL AFFAIRS OF THE UNITED STATES

Mr. COVERDELL. Mr. President, I also appreciate your accepting the duty of presiding so that I might make a comment or two about a number of the speeches that have been made as amendments and commentary at the time of discussing your bill that had nothing whatsoever to do with your bill.

From the other side of the aisle, we have heard repeatedly criticism of the efforts of the new majority to take charge of the fiscal affairs of the United States, even though the vast majority of the American people sent this new majority here to do just that. They have rejected the status quo. They have rejected the concept of spending money we do not have. They have rejected the prospect of robbing the future of its opportunity because there are no resources left. They have rejected the idea that this Nation not stumble into the next century 5 years from now. Yet, all we hear is the same song sheet—leave everything the way it is, and reject the pleas of the American people to take charge of our own financial house.

I tell you. It is mind-boggling.

We have said there are four things that must happen. We must balance our budgets. Eighty-eight percent of the American people say we must balance our budget. Are we deaf? They want the budget balanced, and for good reason. They have to balance their own checkbooks. They have to balance the checkbooks of their businesses. And they know nations have to do the same thing.

I was reading in the bipartisan entitlement commission report just the other day where it said—and it ought to be a loud wake-up call for every American, and certainly for the President and for every American policymaker. It says this: It says that within 10 years—that is a snap of a finger—within 10 years all U.S. resources will be exhausted by just five programs. Just five—Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And there is nothing left. We will not be debating a B–2 bomber. There will not be one, nor anything else to defend the Nation, nor a school lunch program nor a Transportation Department nor a Commerce Department nor any of them. No American, no Member of this Senate, not a person who has abused their financial affairs can carry out their mission—not a person, not a family, not a business, not a community and yes, Mr. President, not even nations. No generation of Americans has ever given the future a country crippled. But we are perilously close to doing just that.

Mr. President, we have said we must balance our budgets so that we quit adding debt. We have said we want to save Medicare because the trustees have said it is going bankrupt, and we want to protect it and preserve it. And we want to save $270 billion, not for a tax increase, but by law to keep it in the Medicare Trust Fund so that its solvency is pushed out years from now so that it does not go bankrupt, so that the current beneficiaries will not have the program closed, and, importantly, so the beneficiaries to come will have it in place.

We said welfare as it is known must come to an end. You would be hard pressed to find a single citizen in this

country that would not agree with that—balance the budget, protect Medicare, alter welfare, and, Mr. President, the fourth item is lower taxes.

You would think that was a travesty from what we have heard on the floor; that it is an absolute sin to talk about lowering taxes on the American working family.

When Ozzie and Harriet were the preeminent American family, Ozzie sent 2 percent of his paycheck to this town. If Ozzie was here today, first of all his family would be completely different and not look a bit like what it was then, mainly because he would be sending 25 percent of every dime he earned to this town. Would it be any wonder that Harriet would not be in the house? She would have to be working.

Balance our budget—America wants that done; protect Medicare—America wants that done; change welfare—America wants that done; lower the financial burden on middle America so that it can do the job it is supposed to do with its own family and without a Washington caretaker—America wants that done.

Boy, you would never think that from what we have heard the last 2 days. I tell you. Where America is and where those speeches are is totally different.

A couple more things, and then I will allow the Presiding Officer to get on with his business of the day.

One, where has the President been in this debate? First, during the campaign, he said he was going to balance the budget in 5 years. I do not know what happened to that promise. He was going to balance the budget in 5 years. Then we offered a balanced budget, and he said, I am not offering any budget.

That is real leadership. That did not play very well in America.

So he says, OK, I am going to offer a budget. I will balance it in 10 years, and it will be easier to do. He has gone all over the country saying that. There is only one problem. That budget never balances, ever—not in 7 years, not in 5 years, not in 7, not in 10; never.

How do I know that? Because the Congressional Budget Office, which he told a joint session of Congress is the numbers we should use, says it will not. The only thing that says it will is the President and his own budget makers.

Mr. President, your budget does not balance, and that is not leadership, and it is not what America is asking for.

The last thing I am going to say is this, Mr. President. That is a sober message, that all our money would be gone for five things in less than 10 years; that Medicare is going bankrupt. We have to really get tough on managing our financial affairs.

That is a tough message, but America needs to know that at the end of the day, if we take charge of our business, if we run this country the way our forefathers would have us do it, the way those who went to Europe to defend it would have us do it, we will send America into the next century with more hope and more opportunity than is even describable. We will lower interest rates. That will affect everybody who buys a car or a refrigerator or a home or has to borrow money to send kids to school. We will lower the economic pressure on those families. We will leave more money for them to manage their education, their housing, their retirement. We will create millions of new jobs—millions of new jobs. We will be strong. We will be the only superpower, and we will have the muscle to defend it.

This happens very quickly if we just start taking charge of our business. If nothing else would motivate you to do it, the kinds of results that come from managing our affairs ought to make every American be calling their Congressman, their Senator, and, yes, the President and say: Get on with this. Do this for me. Do this for my family. And, yes, do this for our country.

Mr. President, I yield the floor and 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. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

Mr. DOLE. Mr. President, I now ask the Senate resume the pending business, H.R. 927.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

CLOTURE MOTION

Mr. DOLE. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant 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 the substitute amendment to Calendar No. 202, H.R. 927, an act to seek international sanctions against the Castro government in Cuba.

Bob Dole, Jesse Helms, Conrad Burns, Don Nickles, Frank H. Murkowski, John H. Chafee, Chuck Grassley, Paul D. Coverdell, Bob Smith, Hank Brown, Trent Lott, Larry E. Craig, Bill Frist, Jim Inhofe, Rod Grams, Mike DeWine.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak therein 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 Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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–1499. A communication from the Administrator of the Environmental Protection Agency, transmitting, the report of the Federal Field Work Group on Alaska rural sanitation; to the Committee on Environment and Public Works.

EC–1500. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the report on Superfund financial transactions for fiscal year 1994; to the Committee on Environment and Public Works.

EC–1501. A communication from the Secretary of Transportation and the Administrator of the Environmental Protection Agency, transmitting jointly, pursuant to law, the report entitled, ''Administrative Assistance to the States: Compliance with Nitrogen Oxides Requirements of the Transportation Conformity Rule''; to the Committee on Environment and Public Works.

EC–1502. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report entitled, ''Monitoring the Impact of Medicare Physician Payment Reform on Utilization and Access''; to the Committee on Finance.

EC–1503. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report on hospital and hospital health care complex cost; to the Committee on Finance.

EC–1504. A communication from the Commissioner of the Social Security Administration, transmitting, pursuant to law, an interim report testing ways of promoting vocational rehabilitation; to the Committee on Finance.

EC–1505. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report entitled, ''Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution''; to the Committee on Finance.

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. WARNER:

S. 1319. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Too Much Fun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1320. A bill to amend chapter 3 of title 28, United States Code, to provide for the appointment in each Federal judicial circuit Court of Appeals, of at least one resident of each State in such circuit, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1321. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Governmental Affairs.

By Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. KYL, Mr. INOUYE, Mr. D'AMATO, Mr. HELMS, Mr. BROWN, Mr. MACK, Mr. SPECTER, Mr. BOND, Mr. THURMOND, Mr. PRESSLER, Mr. FAIRCLOTH, Mr. BRADLEY, Mr. LEVIN, Mr. GRAMM, Mr. DEWINE, Mr. HARKIN, Mr. SHELBY, Mr. MCCONNELL, Mr. LOTT, Mr. HATCH, Mr. COATS, Mr. BAUCUS, Mr. THOMAS, Mr. GORTON, Mrs. BOXER, Mr. GRASSLEY, Mr. INHOFE, Mr. HOLLINGS, Mr. HEFLIN, Mr. BURNS, Mr. DOMENICI, Mr. LIEBERMAN, Mr. NICKLES, Mr. SANTORUM, Mr. COHEN, Mr. GRAMS, Ms. MOSELEY-BRAUN, Mr. ASHCROFT, Ms. SNOWE, Mr. ROBB, Mr. CONRAD, Mr. SMITH, Mr. WARNER, Mr. CRAIG, Mr. KEMPTHORNE, Mr. REID, Mr. COVERDELL, Mrs. HUTCHISON, Mr. FORD, Mr. FRIST, Mr. CAMPBELL, Mr. MURKOWSKI, Mr. COCHRAN, Mr. ROTH, Mr. FEINGOLD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BIDEN, Mr. BRYAN, and Mr. BENNETT):

S. 1322. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; read the first time.

S. 1323. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1319. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Too Much Fun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

JONES ACT WAVIER LEGISLATION

Mr. WARNER. Mr. President, I am introducing a bill today to provide for a Jones Act wavier for a boat owned by a resident of the Commonwealth of Virginia.

The owner of the boat, Mr. Chip Frederick of Virginia, intends to use the boat to begin a boat charter business.

In the 103d Congress, H.R. 3281, was introduced which provided for a Jones Act waiver for Mr. Frederick's boat. The bill was never considered by the Senate and thereafter died after the session ended.

Mr. Frederick purchased his boat from a dealer he believed to be reputable. The dealer informed him that the boat could serve as an excellent charter boat and could be licensed for both commercial and charter uses. After Mr. Frederick purchased the boat, he discovered that additional upgrades were needed to prepare the boat for commercial use. When Mr. Frederick attempted to license the boat for commercial use, he was informed that the boat could not be licensed because it was built in Taiwan. Since that time, the dealer has closed his business and cannot be located. During the past few years, this potentially successful business has been placed on hold. In anticipation of beginning this new business, Mr. Frederick had hired a crew and support staff, but as time elapsed, he has been forced to lay off several employees.

When you consider the facts of this case, Mr. Frederick has made a sizable investment in a boat he purchased with misleading information. A Jones Act waiver will allow for Mr. Frederick to begin his new business and create more jobs in his community.

ADDITIONAL COSPONSORS

S. 386

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes.

S. 1032

At the request of Mr. ROTH, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1032, a bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1274

At the request of Mr. LOTT, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1274, a bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes.

S. 1299

At the request of Mr. PRYOR, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1299, a bill to bring opportunity to small business and taxpayers.

AMENDMENTS SUBMITTED

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

DOLE AMENDMENTS NOS. 2920–2921

Mr. DOLE submitted two amendments intended to be proposed by him to the amendment No. 2898 proposed by him to the bill (H.R. 927) seeking international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes; as follows:

AMENDMENT NO. 2920

At the end of Title I concerning international sanctions against the Castro government, insert the following new section:

SEC. . It is the Sense of the Congress that the President should exercise his authority under United States law to deny entry to Fidel Castro and other senior officials of the Cuban government into the territory of the United States because of Cuban government actions in support of acts of international terrorism, as determined by the Secretary of State pursuant to section 620A of the Foreign Assistance Act of 1961.

AMENDMENT NO. 2921

At the end of Title I, insert the following new section:

SEC. . EXCLUSION OF REPRESENTATIVES OF CERTAIN FOREIGN GOVERNMENTS FROM THE UNITED STATES.

The United Nations Headquarters Agreement Act (Public Law 80–357) is amended—

(1) in section 6, after ''and its immediate vicinity'', by inserting ''except as provided in section 7 of this Act''; and

(2) by adding at the end the following new section:

''SEC. 7. Notwithstanding Article IV of the Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations, the President is authorized, at his discretion, to deny entry into the United States to—

(1) ''representatives of Members whose government has repeatedly provided support for acts of international terrorism as determined by the Secretary of State in accordance with section 620A of the Foreign Assistance Act of 1961, such as Cuba under Fidel Castro's rule; and

(2) ''representatives of Members which the President knows or has reason to believe based on information available to him has engaged in a terrorist activity, is likely to engage after entry in any terrorist activity, or is a member of any group which has engaged in terrorist activity.

HELMS AMENDMENTS NOS. 2922–2927

(Ordered to lie on the table.)

Mr. HELMS submitted six amendments intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

AMENDMENT NO. 2922

After section 302(a)(5)(B), add the following new paragraph:

(C) Notwithstanding the provision of (a) hereof, a United States national other than U.S. nationals on whose behalf the United States has already provided and is deemed hereby to have already provided adequate notice through the Foreign Claims Settlement Commission process or otherwise of the ownership by a U.S. national of property that may become subject to a cause of action hereunder, shall be required to provide following the effectiveness hereof, notice pursuant to the rules for litigants in the United States district court in which such action ultimately is brought two years prior to initiating that action, hereunder, notice on the intended defendant of its ownership claim and a demand that the unlawful trafficking therein cease forthwith. Such damages claimed in any suite filed against the aforesaid intended defendant may only be for trafficking occurring following said period of adequate notice.

AMENDMENT NO. 2923

At the end of the substitute, insert the following new title:

TITLE IV—EXCLUSION OF CERTAIN ALIENS

SEC. 401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary of State determines is a person who has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a national of the United States, or converts or has converted for personal gain confiscated property the claim to which is owned by a national of the United States.

(b) This subsection shall be construed and applied consistent with the North American Free Trade Agreement, the General Agreement on Tariffs and Trade, and other applicable international agreements.

(c) EXCEPTIONS.—This subparagraph shall not apply—

(1) to claims arising from territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved; or

(2) where the Secretary of State deems that making such a determination would be contrary to the national interest of the United States.

(d) REPORT REQUIREMENT.—(1) The U.S. Embassy in each country shall provide the Secretary of State with a list of foreign nationals in that country who have confiscated properties of American citizens and have not fully resolved the cases with the American citizens.

(2) The Secretary of State shall submit this list to the appropriate congressional committees no later than six months after the date of the enactment of this Act.

(3) The Secretary of State, shall submit to the appropriate congressional committees a list of foreign nationals denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of foreign nationals refused entry to the United States as a result of this provision.

(4) The Secretary shall submit a report under this subsection not later than one year after the date of the enactment of this Act; and not later than February 1 of each year thereafter.

AMENDMENT NO. 2924

On page 18 of the pending amendment beginning with line 34 strike all through line 27 on page 20 and insert in lieu thereof the following:

(b) IN GENERAL.—It is the sense of the Congress that—

(1) no sugar or sugar product should enter the United States unless the exporter of the sugar or sugar product to the United States has certified, to the satisfaction of the Secretary of the Treasury, that the sugar or sugar product is not a product of Cuba;

(2) the Secretary of the Treasury should establish and enforce a certification requirement sufficient to satisfy the Secretary that the exporter has taken steps to ensure that it is not exporting to the United States, sugar or sugar products that are a product of Cuba;

(3) the Customs Service should fully exercise the authorities it has under sections 581 through 641 of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641) against those found in violation thereof,

(4) the Secretary of the Treasury should report to the Congress on any unlawful acts and penalties imposed for violations of the prohibition of subsection (d); and

(5) the Secretary of the Treasury should publish in the Federal Register a list containing, to the extent such information is available, the name of any person or entity located outside the customs territory of the United States whose acts result in a violation of the prohibition on exporting any sugar of Cuban origin into the Customs territory of the United States.

(c) DEFINITIONS.—For purposes of this section:

(1) ENTER, ENTRY.—The terms ''enter'' and ''entry''—mean entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) PRODUCT OF CUBA.—The term ''product of Cuba'' means a product that—

(A) is of Cuban origin,

(B) is or has been located in or transported from or through Cuba, or

(C) is made or derived in whole or in part from any article which is the growth, produce, or manufacture of Cuba.

(3) SUGAR, SUGAR PRODUCT.—The terms ''sugar'' and ''sugar product'' means sugars, syrups, molasses, or products with sugar content described in additional U.S. note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States.

AMENDMENT NO. 2925

On page 18 of the pending amendment beginning with line 2 strike all through line 27 on page 20.

AMENDMENT NO. 2926

After section 303 (c)(2) insert the following new paragraph.

(3) Nothing in this Act shall be deemed to establish either a precedent for a cause of action pursuant to this Act as it relates to other circumstances. Nor will anything in this Act give rise to a right or cause of action for any other confiscated property in Cuba or anywhere else in the world.

AMENDMENT NO. 2927

On page 36 of the pending amendment on lines 42 and 43 strike the words ''exclusive of costs'' and insert in lieu thereof ''exclusive of interest and costs.''

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Friday, October 13, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10 a.m. The purpose of this hearing is to examine the role of the Council on Environmental Quality in the decisionmaking and management processes of agencies under the committee's jurisdiction—Department of the Interior, Department of Energy, and the U.S. Forest Service.

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

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Friday, October 13, 1995, at 10 a.m., in Senate Hart room 216, on the Ruby Ridge incident.

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

ADDITIONAL STATEMENTS

THE FOURTH PREFERENCE FAMILY IMMIGRATION CATEGORY

• Mr. SIMON. Mr. President, immigration has been in the news a great deal over the past few months. The debate usually fails completely to account for the vast difference between legal and illegal immigration. Amidst calls for increased enforcement of our laws against illegal immigration to the United States—enforcement which I strongly support—we see proposals aimed at cutting back admissions of legal immigrants: those immigrants who play by the rules and enter our Nation the correct way.

In general, I oppose the idea of further restricting legal immigration to the United States, and particularly oppose drastic cuts in family-based immigration. Those foreigners who demonstrate the initiative to move to the United States are among the most industrious and motivated members of their own nations. Like the immigrants who arrived in America before them, they come to this country to join their families and to carve out opportunities for themselves. In doing so, they enrich our country economically, culturally, and socially. Those who support cuts in legal immigration often do so without identifying any concrete

reason for these cuts, repeating only that the ''national interest'' justifies restricting both legal and illegal immigration. I cannot see how preventing worthy immigrants from reuniting with their families is in our national interest.

Today, I would like to focus on one particular category of legal immigrants who face the threat of a locked door to the United States: the brothers and sisters of U.S. citizens, who are currently eligible for immigrant visas under the fourth family preference category in our immigration laws. Currently, 65,000 immigrants enter the United States annually under this category, and hundreds of thousands of others face a backlog. Both Barbara Jordan's Commission on Immigration Reform and various Members of Congress have proposed eliminating this family preference category outright. I have great concerns about these proposals on two levels.

First, proponents of elimination of the fourth family preference justify their proposals by emphasizing that our family-based immigration system should focus on the nuclear family, and that the sibling relationships protected by the fourth preference category are too attenuated to qualify as a priority in our immigration policy. I think that if we were to survey the American public, we would find that people of every ethnic and racial background value sibling relationships so much that they would—and do—fully support an immigration system that reunifies siblings as well as nuclear family members. While the public is undoubtedly and justifiably concerned about illegal immigration, I have seen no evidence that it devalues legal immigration generally, or sibling relationships in particular, in the manner suggested by those who propose eliminating the fourth family preference. In fact, quite the contrary.

Second, I am especially concerned about the effect of elimination of the fourth preference on those individuals who are currently in the backlog. These prospective immigrants and their sponsors—who are citizens of the United States—have expended substantial resources and funds in attaining eligibility for an immigrant visa. They have played by the rules, and waited patiently for their numbers to come up. As much as these individuals want to reunite with their siblings, they have decided against taking the rash but convenient step of entering or staying in the United States illegally. It would be fundamentally unfair for the United States to take the money and run without fulfilling its commitment to these individuals.

I submit for the RECORD a New York Times article from September 24, 1995, which tells the story of Sonya Canton, a naturalized American citizen. She has two sisters, one of whom has illegally overstayed her visa to the United States, is living here today legally under the 1986 amnesty, and will soon become eligible for citizenship; and the other of whom waits patiently in the fourth preference backlog, having paid both her fees and her dues. Mrs. Canton states: ''It is some kind of injustice when those who played by the rules can't get in, but those who broke the rules are now going to become citizens.'' I could not say it any better. At the very least, proposals to reform the fourth preference should, as a matter of fairness, provide for those in the current backlog.

I bring to this issue a personal perspective. The director of my Chicago office, Nancy Chen, has sponsored two of her brothers into the United States under the fourth preference. Both of them live near her in Illinois, and both are productive members of society with good jobs. The closeness and industry demonstrated by this family is the very behavior we should applaud and encourage. I fear that by eliminating the fourth preference category we do just the opposite, and call on my colleagues in Congress and on the administration to find a more suitable solution in this area—one that, at the very least, treats those backlogged visa applicants with the fairness they deserve.

The article follows:

[From the New York Times, September 24, 1995]

NARROWING THE U.S. IMMIGRATION GATE

(By Seth Mydans)

Seventeen years ago, Sonya Canton, an American citizen born in the Philippines, petitioned for her sister, a banker, to join her here under the family-reunification policy that has been the basic principle of United States immigration law for 30 years.

While she was waiting, a second sister, who sold exotic seashells for a living, visited the United States as a tourist, liked the place and decided to stay on illegally with her three children.

To this sister's surprise and good fortune, in 1986 Congress offered amnesty to illegal immigrants, and she and her children became legal residents, eligible for citizenship. Today she works as a saleswoman in a department store, and her children have all graduated from high school with honors.

Meanwhile, as a banker sister continues to wait, the mood of the country, and of Congress, has changed. Struggling to stem a flood of legal and illegal immigrants, Congress is preparing to cut deeply into family-reunification quotes this fall and drop people like her from eligibility.

If the changes are enacted, the United States would shut the door on about 2.4 million people—the brothers, sisters and adult children of citizens and legal residents—who have waited for years or decades to enter the country as legal immigrants. That number nearly matches the three million illegal immigrants granted amnesty in 1986.

''It is some kind of injustice when those who played by the rules can't get in, but those who broke the rules are now going to become citizens,'' said Ms. Canton, an import specialist for the United States Customs Service.

But even immigration advocates concede that the current law has become unwieldy, with a total of 3.5 million people waiting—some in lines that stretch for 40 years or more—to join relatives in the United States.

In some countries, like the Philippines, the projected wait for American visas is so long that the categories for siblings and adult children effectively no longer exist. Nonetheless, the applications keep coming in, and the lines grow longer. The solution most favored by Congress is to focus on the nuclear family and to eliminate from eligibility those with less immediate ties.

''I don't think there is any risk that family unity will be eliminated as a basis for immigration to the United States,'' said Arthur C. Helton, an immigration expert with the Open Society Institute, a lobbying group in New York that studies international issues. ''But what that means in a number of specific contexts will be redefined, and a focus on the immediate nuclear family will emerge.''

That approach became evident when a Presidential commission led by Barbara Jordan, a Democrat and former Representative from Texas, recently began drafting proposed changes in the immigration law. In an interim report issued in June, the commission recommended, among other things, allowing citizens and legal residents to bring in only spouses and minor, unmarried children—not their siblings or adult children.

Congress is now considering a number of immigration bills. The most far-reaching was submitted in June by Representative Lamar Smith, the Texas Republican who heads the House subcommittee on immigration. His bill is in the hands of the House Judiciary Committee. In the Senate, Alan K. Simpson, Republican of Wyoming, is preparing to introduce a similar bill.

The Smith and Simpson measures largely attack illegal immigration; they propose stronger border controls, workplace enforcement and deportation procedures. In addressing legal immigration, the bills drastically cut family-reunification admissions by making the siblings and grown children of legal residents and citizens no longer eligible for immigration. The Smith bill would reduce the number of legal immigrants to 535,000 a year, compared with about 800,000 last year.

The changes would reduce the waiting lists and speed the entry of the spouses and minor children of legal residents. Currently, the spouses and minor children of United States citizens can enter immediately, without a numerical quota. But about 1.1 million spouses and minor children of legal residents are caught in the backlog, along with siblings and children over 21.

Apart from family reunification, the primary avenue for immigration into the United States is employment.

The 1986 amnesty is partly responsible for the flood of applicants that has created pressure for the changes. About 80 percent of the spouses and minor children on the immigration waiting lists are relatives of those who won legal residence under that law, Government figures show.

The total family-preference waiting list of 3.5 million is twice as long as when the amnesty law took effect. Under current quotas, only 253,721 of those waiting will receive visas this year, even as the list of applicants grows longer.

The backlog includes one million applicants from Mexico and about 500,000 from the Philippines. Before the 1986 amnesty, the Philippines was the largest source of legal immigrants into the United States. Those countries are followed by India, China, Vietnam, the Dominican Republic, Taiwan, South Korea, El Salvador and Haiti.

Short of raising the ceiling for immigration, there seems to be little way to accommodate the lengthening waiting list of siblings and adult children.

''Clearly the public mood and the practical realities of today's America require that we cut down on immigration,'' said Dan Stein, executive director of the Federation for American Immigration Reform, an independent lobbying group.

Calling the Jordan, Smith and Simpson proposals ''an effort to strike a balance,'' he said, ''We have to make these decisions based on what is in our national interest.'' He added, ''We have no duty or obligation to people who have been waiting in line because the system is impractical in the first place.''

But opponents say the cuts are politically motivated and unnecessary. ''Since when did the United States become too small for the parents and children and brothers and sisters of United States citizens?'' asked Frank Sharry, executive director of the National Immigration Forum, a pro-immigration lobbying group. ''The idea of bringing in energetic newcomers who are helped by family members to get a leg up in this society is something that has worked for 300 years.''

He added, ''For a Congress that prides itself in being pro-family, it seem hypocritical to cut family immigration by 30 percent.''

One potential victim of the expected changes is Leticia Chong, a Filipino nurse who has played by the rules and prospered. She entered the country legally in 1981, became a legal resident, obtained both business and nursing degrees here and brought up five Philippines-born children to become American doctors, nurses and engineers. Today they are all either citizens or legal residents.

Her problem is her sixth and last child, an engineering student who will turn 21 this month, having waited in vain for his name to come up in the backlog of petitions for minor children of legal residents. He now enters the category of adult children, and—like Ms. Canton's banker sister—he would simply be dropped from eligibility under the proposed changes.

''He has been here since he was 11 years old,'' Mrs. Chong said. ''He has friends here. His family is here. This is his home. What will he do if he has to go back to the Philippines?''●

HONORING THE MONTSHIRE MUSEUM OF SCIENCE 1995 WINNER OF THE NATIONAL MUSEUM SERVICES AWARD

● Mr. JEFFORDS. Mr. President, on Friday, October 6, 1995, the Institute of Museum Services announced the winners of the 1995 National Awards for Museum Services. The awards were presented to five museums that demonstrated success in attracting new audiences, developing innovative programming which address educational, social, economic, and environmental issues, and entering into collaborations with other public institutions in the community. Winners received the awards at a special White House ceremony. I am so proud that one of the museums chosen to be honored this year comes from the State of Vermont. The Montshire Museum of Science in Norwich, VT is a recipient of the 1995 National Museum Service Award. Serving both Vermont and New Hampshire, the Montshire Museum is a model of creativity, usefulness, and public service.

The Montshire Museum is an outstanding science museum that has enriched the cultural and educational life of the Norwich community and surrounding environs. It has set itself apart through a commitment to special activities and exhibitions, bringing unique vitality and purpose to innovative programming. For years, the Montshire Museum has been making learning science fun and accessible for people of all ages. For example, the Montshire has developed educational exhibitions that inform visitors about recycling and ''precycling,'' or making smart purchasing decisions as part of its work in partnership with the Hartford Community Center for Recycling and Waste Management. As a result of the Montshire Museum's commitment, thousands who have come to the center to dispose of waste have had an opportunity to learn more about recycling and making smarter, more environmentally friendly purchasing decisions. In addition, the Montshire has been a leader in creating a new community computer network housed in the museum—a great asset to all served by the museum. Clearly, this small science museum has taken a leadership role in making a difference to its community.

Since it was established 20 years ago, the Montshire Museum has made an enormous impact on presenting unique educational opportunities for the people of Vermont and New Hampshire. It is truly an example of excellence in partnership and learning. My sincere congratulations to David Goudy, director of the Montshire Museum and to Bruce Pipes, chairman of the board—as well as to the all of the other committed individuals working at the Montshire Museum—for this exceptional honor. I am certain that it will continue to make a positive difference in our State that will last far into the future. ●

TRIBUTE TO MAJ. GEN. JAMES M. HURLEY, USAF, ON HIS RETIREMENT

● Mr. NUNN. Mr. President, I would like the Senate to recognize Maj. Gen. James M. Hurley on the occasion of his retirement from active duty with the U.S. Air Force. General Hurley will retire from his position as the Director of Plans and Programs at Headquarters Air Combat Command at Langley AFB, VA. Throughout his tenure in this position, General Hurley has been responsible for the development of concepts, policies, and doctrine for the employment of Combat Air Forces. In addition, he has overseen the force structure requirements and budgeting for all Combat Air Forces programs and aircraft assignments as well as the interactions between Combat Air Forces and the FAA.

During his college years at Texas A&M University, General Hurley participated in the Reserve Officer Training Corps program. After his graduation from college in May 1965, he began his career in the Air Force. He earned a command pilot rating and has logged more than 3,300 flight hours, primarily in fighter aircraft such as the F–4 and F–16. He flew 143 combat missions over North Vietnam and Laos. From January 1978 to November 1981, General Hurley commanded a squadron in the 347th Tactical Fighter Wing at Moody AFB, GA. His next assignment was at Headquarters U.S. Air Force in Washington, DC, where he served as the Chief of Flying Training for the Deputy Chief of Staff for Manpower and Personnel. From July 1987 through June 1988, General Hurley served as the vice commander and wing commander of the 474th Tactical Fighter Wing based at Nellis AFB, NV.

In 1987, General Hurley returned to Headquarters, U.S. Air Force to assume the post of Deputy Director, and later, the post of Director of Personnel Plans. From July 1989 through July 1991, he served as the Chief of Staff for NATO's 2d Tactical Air Force in Germany. In July 1991, General Hurley became the Director of Manpower and Organization at Headquarters U.S. Air Force. He remained in that position until May 1992, when he undertook his current assignment.

General Hurley has served the United States with great distinction and honor. Throughout his outstanding career in the U.S. Air Force, General Hurley has received numerous decorations and medals, including the Defense Superior Service Medal, the Legion of Merit, the Distinguished Flying Cross, the Meritorious Service Medal with 4 oak leaf clusters, the Air Medal with 11 oak leaf clusters, the Presidential Unit Citation, and the Vietnam Service Medal with 3 bronze stars.

Mr. President, on behalf of a grateful Nation, I ask my colleagues to join me in thanking Maj. Gen. James M. Hurley for his exemplary service in the U.S. Air Force. We wish him, his wife Donna, and their two daughters, Lisa and April, Godspeed and every success in their future endeavors.●

VIOLENCE POLICY CENTER'S REPORT, ''COP KILLERS: ASSAULT WEAPON ATTACKS ON AMERICA'S POLICE''

● Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to a report recently released by the Violence Policy Center which refutes one of the most persistent criticisms of the assault weapon ban—that assault weapons are not used by criminals. The ban on semiautomatic assault weapons, enacted into law last year, has been the subject of intense criticism and unfortunately seems to be the target of an almost inevitable repeal effort in this Congress. This report should help clarify the real dangers posed by these weapons.

Despite the support of numerous law enforcement groups, and compelling testimony to the contrary, many opponents of the assault weapon ban claim that assault weapons are rarely used in crimes, and pose little threat to law enforcement personnel. This report, based on a survey of newspaper clips from across the nation from February to July, 1995, provides further evidence to the contrary.

The survey identifies eight police officers killed and nine wounded by assault weapons during this 5-month period. It documents 20 separate incidents in which at least 43 law enforcement officers were confronted by assailants armed with assault weapons. This figure only includes incidents where these weapons posed an imminent threat to the officers, not incidents where assault weapons were found on suspects or confiscated during the course of an investigation or arrest. Twelve of the 20 incidents involved AK–47 assault rifles or TEC–9 assault pistols, both of which are explicitly banned by the Federal legislation. The study finds that at least 1 in 10 law enforcement officers killed in the line of duty will be felled by assault weapons.

I urge my colleagues to read this report, and seriously consider the public safety and public policy issues involved in this issue. We should heed the voices of the many law enforcement groups which strongly support the ban. We should not repeal the assault weapon ban before it is given chance to make a difference. ●

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 193, S. 1267.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1267) to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (S. 1267) was deemed read the third time and passed, as follows:

S. 1267

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Congressional Award Act Amendments of 1995''.

SEC. 2. EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.

Section 5(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking ''and 1994'' and inserting ''1994, 1995, 1996, and 1997''.

SEC. 3. TERMINATION.

Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking ''October 1, 1995'' and inserting ''October 1, 1998''.

WEEK WITHOUT VIOLENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 180, a resolution designating October 15–21, 1995 as the ''Week Without Violence''; that the Senate then proceed to its immediate consideration; that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

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

So the resolution (S. Res. 180) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 180

Whereas the Week Without Violence, a public-awareness campaign designed to inspire alternatives to the problem of violence in our society, falls on October 15, 1995, through October 21, 1995;

Whereas the prevalence of violence in our society has become increasingly disturbing, as reflected by the fact that 2,000,000 people are injured each year as a result of violent crime, with a staggering 24,500 reported murders in 1993 and with losses from medical expenses, lost pay, property, and other crime-related costs totaling billions of dollars each year;

Whereas studies show that violence against women in their own homes causes more total injuries to women than rape, muggings, and car accidents combined and that one-half of all women who are murdered in the United States are killed by their male partners;

Whereas violence has invaded our homes and communities and is exacting a terrible toll on our country's youth;

Whereas children below the age of 12 are the victims of 1 in 4 violent juvenile victimizations reported to law enforcement, adding up to roughly 600,000 violent incidents involving children under the age of 12 each year;

Whereas studies show that childhood abuse and neglect increases a child's odds of future delinquency and adult criminality and that today's juvenile victims are tomorrow's repeat offenders;

Whereas the risk of violent victimization of children and young adults has increased in recent years;

Whereas according to FBI statistics, on a typical day in 1992, 7 juveniles were murdered;

Whereas from 1985 to 1992, nearly 17,000 persons under the age of 18 were murdered;

Whereas the YWCA, as the oldest women's membership movement in the United States, continues its long history as an advocate for women's rights, racial justice, and nonviolent approaches to resolving many of society's most troubling problems;

Whereas the chapters of the YWCA provide a wide range of valuable programs for women all across the country, including job training programs, child care, battered women's shelters, support programs for victims of rape and sexual assault, and legal advocacy;

Whereas the YWCA Week Without Violence campaign will take an active approach to confront the problem of violence head-on, with a grassroots effort to prevent violence from making further inroads into our schools, community organizations, workplaces, neighborhoods, and homes;

Whereas the Week Without Violence will provide a forum for examining viable solutions for keeping violence against women, men, and children out of our homes and communities;

Whereas national and local groups will inspire and educate our communities about effective alternatives to violence; and

Whereas the YWCA Week Without Violence is both a challenge and a clarion call to all Americans: Now, therefore, be it

Resolved, That the Senate encourages all Americans to spend 7 days without committing, condoning, or contributing to violence and proclaims the week of October 15, 1995, through October 21, 1995, as the ''Week Without Violence''.

Mr. HATCH. Mr. President, I am pleased to rise today to support passage of Senate Resolution 180, declaring next week the ''Week Without Violence.'' This week is part of what I hope will be a tremendous public awareness campaign to educate Americans about the threat of violence in our society and to offer alternatives to this grave problem.

None of us is immune from the violence in our communities. In rural and urban areas across this country, men, women, and children are at risk. They are at risk not just on the streets, but all too often in their homes or in their schools.

I enthusiastically join Senator BRADLEY and others in supporting this resolution; it calls on Americans to spend a week without committing, condoning, ignoring, or contributing to violence.

Teaching people that violence is not acceptable and educating victims of violence to seek out protection will save lives. The issue of violence deserves national attention and demands community involvement. I hope and believe that the focus of the ''Week Without Violence'' will be a small but significant step in decreasing the scourge of violence in our society.

RYAN WHITE CARE REAUTHORIZATION ACT of 1995—MESSAGE FROM THE HOUSE

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 641) entitled ''An Act to reauthorize the Ryan White CARE Act of 1990, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ryan White CARE Act Amendments of 1995''.

SEC. 2. REFERENCES.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

SEC. 101. ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) NUMBER OF CASES; DELAYED APPLICABILITY.—Effective October 1, 1996, section 2601(a) (42 U.S.C. 300ff–11) is amended—

(1) by striking ''subject to subsection (b)'' and inserting ''subject to subsections (b) through (d)''; and

(2) by striking ''metropolitan area'' and all that follows and inserting the following: ''metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of five calendar years for which such data are available.''.

(b) OTHER PROVISIONS REGARDING ELIGIBILITY.—Section 2601 (42 U.S.C. 300ff–11) is amended by adding at the end thereof the following subsections:

''(c) REQUIREMENTS REGARDING POPULATION.—

''(1) NUMBER OF INDIVIDUALS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

''(B) LIMITATION.—Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

''(2) GEOGRAPHIC BOUNDARIES.—For purposes of eligibility under this part, the boundaries of each metropolitan area are the boundaries that were in effect for the area for fiscal year 1994.

''(d) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.''.

(c) CONFORMING AMENDMENT REGARDING DEFINITION OF ELIGIBLE AREA.—Section 2607(1) (42 U.S.C. 300ff–17(1)) is amended by striking ''The term'' and all that follows and inserting the following: ''The term 'eligible area' means a metropolitan area meeting the requirements of section 2601 that are applicable to the area.''.

SEC. 102. HIV HEALTH SERVICES PLANNING COUNCIL.

(a) ESTABLISHMENT.—Section 2602(b)(1) (42 U.S.C. 300ff–12(b)(1)) is amended—

(1) in subparagraph (A), by inserting before the semicolon the following: '', including federally qualified health centers'';

(2) in subparagraph (D), by inserting before the semicolon the following: ''and providers of services regarding substance abuse'';

(3) in subparagraph (G), by inserting before the semicolon the following: ''and historically underserved groups and subpopulations'';

(4) in subparagraph (I), by inserting before the semicolon the following: '', including the State medicaid agency and the agency administering the program under part B'';

(5) in subparagraph (J), by striking ''and'' after the semicolon;

(6) by striking subparagraph (K); and

(7) by adding at the end the following subparagraphs:

''(K) grantees under section 2671, or, if none are operating in the area, representatives of organizations in the area with a history of serving children, youth, women, and families living with HIV; and

''(L) grantees under other HIV-related Federal programs.''.

(b) DUTIES.—Section 2602(b)(3) (42 U.S.C. 300ff–12(b)(3)) is amended—

(1) by striking ''The planning'' in the matter preceding subparagraph (A) and all that follows through the semicolon at the end of subparagraph (A) and inserting the following: ''The planning council under paragraph (1) shall carry out the following:

''(A) Establish priorities for the allocation of funds within the eligible area based on the following factors:

''(i) Documented needs of the HIV-infected population.

''(ii) Cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available.

''(iii) Priorities of the HIV-infected communities for which the services are intended.

''(iv) Availability of other governmental and nongovernmental resources.'';

(2) in subparagraph (B)—

(A) by striking ''develop'' and inserting ''Develop''; and

(B) by striking ''; and'' and inserting a period;

(3) in subparagraph (C)—

(A) by striking ''assess'' and inserting ''Assess'';

(B) by striking ''rapidly''; and

(C) by inserting before the period the following: '', and assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs''; and

(4) by adding at the end the following subparagraphs:

''(D) Participate in the development of the statewide coordinated statement of need initiated by the State health department (where it has been so initiated).

''(E) Obtain input on community needs through conducting public meetings.''.

(c) GENERAL PROVISIONS.—Section 2602(b) (42 U.S.C. 300ff–12(b)) is amended by adding at the end the following paragraph:

''(4) GENERAL PROVISIONS.—

''(A) COMPOSITION OF COUNCIL.—The planning council under paragraph (1) shall (in addition to requirements under such paragraph) reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process, and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard for each nominee.

''(B) CONFLICTS OF INTEREST.—

''(i) The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 2601(a). With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the selection of) particular entities as recipients of any of the amounts provided in the grant.

''(ii) An individual may serve on the planning council under paragraph (1) only if the individual agrees to comply with the following:

''(I) If the individual has a financial interest in an entity, and such entity is seeking amounts from a grant under section 2601(a), the individual will not, with respect to the purpose for which the entity seeks such amounts, participate (directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

''(II) In the case of a public or private entity of which the individual is an employee, or a public or private organization of which the individual is a member, the individual will not participate (directly or in an advisory capacity) in the process of making any decision that relates to the expenditure of a grant under section 2601(a) for such entity or organization or that otherwise directly affects the entity or organization.''.

SEC. 103. TYPE AND DISTRIBUTION OF GRANTS.

(a) FORMULA GRANTS BASED ON RELATIVE NEED OF AREAS.—Section 2603(a) (42 U.S.C. 300ff–13(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting '', subject to paragraph (4)'' before the period; and

(B) by adding at the end the following sentence: ''Grants under this paragraph for a fiscal year shall be disbursed not later than 60 days after the date on which amounts appropriated under section 2677 become available for the fiscal year, subject to any waivers under section 2605(d).'';

(2) in paragraph (2), by amending the paragraph to read as follows:

''(2) ALLOCATIONS.—Of the amount available under section 2677 for a fiscal year for making grants under section 2601(a)—

''(A) the Secretary shall reserve 50 percent for making grants under paragraph (1) in amounts determined in accordance with paragraph (3); and

''(B) the Secretary shall, after compliance with subparagraph (A), reserve such funds as may be necessary to carry out paragraph (4).''; and

(3) by adding at the end the following paragraph:

''(4) MAXIMUM REDUCTION IN GRANT.—In the case of any eligible area for which a grant under paragraph (1) was made for fiscal year 1995, the Secretary, in making grants under such paragraph for the area for the fiscal years 1996 through 2000, shall (subject to the extent of the amount available under section 2677 for the fiscal year involved for making grants under section 2601(a)) ensure that the amounts of the grants do not, relative to such grant for the area for fiscal year 1995, constitute a reduction of more than the following, as applicable to the fiscal year involved:

''(A) 1 percent, in the case of fiscal year 1996.

''(B) 2 percent, in the case of fiscal year 1997.

''(C) 3 percent, in the case of fiscal year 1998.

''(D) 4 percent, in the case of fiscal year 1999.

''(E) 5 percent, in the case of fiscal year 2000.''.

(b) SUPPLEMENTAL GRANTS.—Section 2603(b) (42 U.S.C. 300ff–13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''Not later than'' and all that follows through ''section 2605(b)—'' and inserting the following: ''After allocating in accordance with subsection (a) the amounts available under section 2677 for grants under section 2601(a) for a fiscal year, the Secretary, in carrying out section 2601(a), shall from the remaining amounts make grants to eligible areas described in this paragraph. Such grants shall be disbursed not later than 150 days after the date on which amounts appropriated under section 2677 become available for the fiscal year. An eligible area described in this paragraph is an eligible area whose application under section 2605(b)—'';

(B) in subparagraph (D), by striking ''and'' after the semicolon;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end thereof the following subparagraph:

''(F) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need.''; and

(2)(A) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(B) by inserting after paragraph (1) the following paragraph:

''(2) PRIORITY.—

''(A) SEVERE NEED.—In determining severe need in accordance with paragraph (1)(B), the Secretary shall give priority consideration in awarding grants under this subsection to eligible areas that (in addition to complying with paragraph (1)) demonstrate a more severe need based on the prevalence in the eligible area of—

''(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other conditions determined relevant by the Secretary, which significantly affect the impact of HIV disease;

''(ii) subpopulations with HIV disease that were previously unknown in such area; or

''(iii) homelessness.

''(B) PREVALENCE.—In determining prevalence of conditions under subparagraph (A), the Secretary shall use data on the prevalence of the conditions described in such subparagraph among individuals with HIV disease (except that, in the case of an eligible area for which such data are not available, the Secretary shall use data on the prevalences of the conditions in the general population of such area).''.

(c) ADDITIONAL REQUIREMENTS FOR GRANTS.—Section 2603 (42 U.S.C. 300ff–13) is amended by adding at the end the following subsection:

''(c) COMPLIANCE WITH PRIORITIES OF HIV PLANNING COUNCIL.—Notwithstanding any other provision of this part, the Secretary, in carrying out section 2601(a), may not make any grant under subsection (a) or (b) to an eligible area unless the application submitted by such area under section 2605 for the grant involved demonstrates that the grants made under subsections (a) and (b) to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 2602(b)(3)(A), by the planning council serving the area.''.

SEC. 104. USE OF AMOUNTS.

Section 2604 (42 U.S.C. 300ff–14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking ''including case management and comprehensive treatment services, for individuals'' and inserting the following: ''including HIV-related comprehensive treatment services (including treatment education and measures for the prevention and treatment of opportunistic infections), case management, and substance abuse treatment and mental health treatment, for individuals'';

(B) in paragraph (2)(A)—

(i) by inserting after ''nonprofit private entities,'' the following: ''or private for-profit entities if such entities are the only available provider of quality HIV care in the area,'' ; and

(ii) by striking ''and homeless health centers'' and inserting ''homeless health centers, substance abuse treatment programs, and mental health programs''; and

(C) by adding at the end the following paragraph:

''(3) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, the chief elected official of an eligible area shall use, of the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome, or 15 percent, whichever is less. In expending the funds reserved under the preceding sentence for a fiscal year, the chief elected official shall give priority to providing, for pregnant women, measures to prevent the perinatal transmission of HIV.''; and

(2) in subsection (e), by adding at the end thereof the following sentence: ''In the case of entities to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).''.

SEC. 105. APPLICATION.

Section 2605 (42 U.S.C. 300ff–15) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''1-year period'' and all that follows through ''eligible area'' and inserting ''preceding fiscal year'';

(B) in paragraph (4), by striking ''and'' at the end thereof;

(C) in paragraph (5), by striking the period at the end thereof and inserting ''; and''; and

(D) by adding at the end thereof the following paragraph:

''(6) that the applicant will participate in the process for the statewide coordinated statement of need (where it has been initiated by the State), and will ensure that the services provided under the comprehensive plan are consistent with such statement.'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''ADDITIONAL''; and

(B) in the matter preceding paragraph (1), by striking ''additional'';

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b), the following subsection:

''(c) SINGLE APPLICATION.—Upon the request of the chief elected official of an eligible area, the Secretary may authorize the official to submit a single application through which the official simultaneously requests a grant pursuant to subsection (a) of section 2603 and a grant pursuant to subsection (b) of such section. The Secretary may establish such criteria for carrying out this subsection as the Secretary determines to be appropriate.''.

SEC. 106. TECHNICAL ASSISTANCE; PLANNING GRANTS.

Section 2606 (42 U.S.C. 300ff–16) is amended—

(1) by inserting before ''The Administrator'' the following: ''(a) IN GENERAL.—'';

(2) by striking ''may, beginning'' and all that follows through ''title,'' and inserting ''(referred to in this section as the 'Administrator') shall''; and

(3) by adding at the end the following subsection:

''(b) PLANNING GRANTS REGARDING INITIAL ELIGIBILITY FOR GRANTS.—

''(1) ADVANCE PAYMENTS ON FIRST-YEAR FORMULA GRANTS.—With respect to a fiscal year (referred to in this subsection as the 'planning year'), if a metropolitan area has not previously received a grant under section 2601 and the Administrator reasonably projects that the area will be eligible for such a grant for the subsequent fiscal year, the Administrator may make a grant for the planning year for the purpose of assisting the area in preparing for the responsibilities of the area in carrying out activities under this part.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—A grant under paragraph (1) for a planning year shall be made directly to the chief elected official of the city or urban county that administers the public health agency to which section 2602(a)(1) is projected to apply for purposes of such paragraph. The grant may not be made in an amount exceeding $75,000.

''(B) OFFSETTING REDUCTION IN FIRST FORMULA GRANT.—In the case of a metropolitan area that has received a grant under paragraph (1) for a planning year, the first grant made pursuant to section 2603(a) for such area shall be reduced by an amount equal to the amount of the grant under such paragraph for the planning year. With respect to amounts resulting from reductions under the preceding sentence for a fiscal year, the Secretary shall use such amounts to make grants under section 2603(a) for the fiscal year, subject to ensuring that none of such amounts are provided to any metropolitan area for which such a reduction was made for the fiscal year.

''(3) FUNDING.—Of the amounts available under section 2677 for a fiscal year for carrying out this part, the Administrator may reserve not more than 1 percent for making grants under paragraph (1).''.

TITLE II—CARE GRANT PROGRAM

SEC. 201. GENERAL USE OF GRANTS.

Section 2612 (42 U.S.C. 300ff–22) is amended to read as follows:

''SEC. 2612. GENERAL USE OF GRANTS.

''(a) IN GENERAL.—A State may use amounts provided under grants made under this part for the following:

''(1) To provide the services described in section 2604(b)(1) for individuals with HIV disease.

''(2) To provide to such individuals treatments that in accordance with section 2616 have been determined to prolong life or prevent serious deterioration of health.

''(3) To provide home- and community-based care services for such individuals in accordance with section 2614.

''(4) To provide assistance to assure the continuity of health insurance coverage for such individuals in accordance with section 2615.

''(5) To establish and operate consortia under section 2613 within areas most affected by HIV disease, which consortia shall be designed to provide a comprehensive continuum of care to individuals and families with such disease in accordance with such section.

''(b) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, a State shall use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population in the State of infants, children, and women with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome, or 15 percent, whichever is less. In expending the funds reserved under the preceding sentence for a fiscal year, the State shall give priority to providing, for pregnant women, measures to prevent the perinatal transmission of HIV.''.

SEC. 202. GRANTS TO ESTABLISH HIV CARE CONSORTIA.

Section 2613 (42 U.S.C. 300ff–23) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''(or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)'' after ''nonprofit private,''; and

(B) in paragraph (2)(A)—

(i) by inserting ''substance abuse treatment, mental health treatment,'' after ''nursing,''; and

(ii) by inserting after ''monitoring,'' the following: ''measures for the prevention and treatment of opportunistic infections, treatment education for patients (provided in the context of health care delivery),''; and

(2) in subsection (c)(2)—

(A) in clause (ii) of subparagraph (A), by striking ''and'' after the semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding after subparagraph (B) the following subparagraph:

''(C) grantees under section 2671, or, if none are operating in the area, representatives in the area of organizations with a history of serving children, youth, women, and families living with HIV.''.

SEC. 203. PROVISION OF TREATMENTS.

Section 2616(a) (42 U.S.C. 300ff–26(a)) is amended—

(1) by striking ''may use amounts'' and inserting ''shall use a portion of the amounts'';

(2) by striking ''section 2612(a)(4)'' and inserting ''section 2612(a)(2)''; and

(3) by inserting before the period the following: '', including measures for the prevention and treatment of opportunistic infections''.

SEC. 204. ADDITIONAL REQUIREMENTS FOR GRANTS.

(a) FINDINGS.—The Congress finds as follows:

(1) Research studies have demonstrated that administration of antiviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

(2) The Centers for Disease Control and Prevention have recommended that all pregnant

women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including antiviral therapy) and support services.

(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults.

(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

(7) For the reasons specified in paragraphs (1) through (6)—

(A) mandatory counseling and voluntary testing of pregnant women should be the standard of care; and

(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.

(b) ADDITIONAL REQUIREMENTS FOR GRANTS.—Part B (42 U.S.C. 300ff–21 et seq.) is amended—

(1) in section 2611, by adding at the end the following sentence: ''The authority of the Secretary to provide grants under this part is subject to section 2673D (relating to the testing of pregnant women and newborn infants).''; and

(2) by inserting after section 2616 the following section:

''SEC. 2616A. REQUIREMENT REGARDING HEALTH INSURANCE.

''(a) IN GENERAL.—Subject to subsection (c), the Secretary shall not make a grant under this part to a State unless the State has in effect a statute or regulations regulating insurance that imposes the following requirements:

''(1) That, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in paragraph (3)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease.

''(2) That paragraph (1) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented any of the following:

''(A) The HIV status of the individual.

''(B) Facts regarding whether the individual has been tested for HIV disease.

''(C) Facts regarding whether the individual has engaged in any behavior that places the individual at risk for the disease.

''(3) That paragraph (1) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV disease that would have been made if the individual had a serious disease other than HIV disease.

''(b) REGULATION OF HEALTH INSURANCE.—A statute or regulation shall be deemed to regulate insurance for purposes of this section only to the extent that it is treated as regulating insurance for purposes of section 514(b)(2) of the Employee Retirement Income Security Act of 1974.

''(c) APPLICABILITY OF REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section applies upon the expiration of the 120-day period beginning on the date of the enactment of the Ryan White CARE Act Amendments of 1995.

''(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of the State involved, if the Secretary determines that a requirement of this section cannot be implemented in the State without the enactment of State legislation, then such requirement applies to the State on and after the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of the enactment of the Ryan White CARE Act Amendments of 1995. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.''.

(c) TESTING OF NEWBORNS; PRENATAL TESTING.—Part D (42 U.S.C. 300ff–71 et seq.) is amended by inserting before section 2674 the following sections:

''SEC. 2673C. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS; PROGRAM OF GRANTS.

''(a) PROGRAM OF GRANTS.—The Secretary may make grants to States described in subsection (b) for the following purposes:

''(1) Making available to pregnant women appropriate counseling on HIV disease.

''(2) Making available to such women testing for such disease.

''(3) Testing newborn infants for such disease.

''(4) In the case of newborn infants who test positive for such disease, making available counseling on such disease to the parents or other legal guardians of the infant.

''(5) Collecting data on the number of pregnant women and newborn infants in the State who have undergone testing for such disease.

''(b) ELIGIBLE STATES.—Subject to subsection (c), a State referred to in subsection (a) is a State that has in effect, in statute or through regulations, the following requirements:

''(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

''(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

''(A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant).

''(B) If the State is the legal guardian of the infant:

''(i) To the appropriate official of the State agency with responsibility for the care of the infant.

''(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.

''(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.

''(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.

''(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.

''(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.

''(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).

''(c) LIMITATION REGARDING AVAILABILITY OF GRANT FUNDS.—With respect to an activity described in any of paragraphs (1) through (4) of subsection (b), the requirement established by a State under such subsection that the activity be carried out applies for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

''(1) Federal funds provided to the State in grants under subsection (a).

''(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

''(d) DEFINITIONS.—For purposes of this section, the term 'authorized agency', with respect to the placement of a child (including an infant) for whom a State is a legal guardian, means an entity licensed or otherwise approved by the State to assist in such placement.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

''SEC. 2673D. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS; CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER PART B.

''(a) DETERMINATION BY SECRETARY.—During the first 30 days following the expiration of the 2-year period beginning on the date of the enactment of the Ryan White CARE Act Amendments of 1995, the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (4) of section 2673C(b). In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

''(b) CONTINGENT APPLICABILITY.—

''(1) IN GENERAL.—If the determination published in the Federal Register under subsection (a) is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) applies on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

''(2) REQUIREMENT.—Subject to subsection (c), the Secretary shall not make a grant under part B to a State unless the State meets not less than one of the following requirements:

''(A) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (4) of section 2673C(b).

''(B) The State demonstrates that, of the newborn infants born in the State during the most recent 1-year period for which the data are available, the HIV antibody status of 95 percent of the infants is known.

''(c) LIMITATION REGARDING AVAILABILITY OF FUNDS.—With respect to an activity described in any of paragraphs (1) through (4) of section 2673C(b), the requirements established by a State under subsection (b)(2)(A) that the activity be carried out applies for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

''(1) Federal funds provided to the State in grants under part B.

''(2) Federal funds provided to the State in grants under section 2673C.

''(3) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.''.

SEC. 205. STATE APPLICATION.

Section 2617(b)(2) (42 U.S.C. 300ff–27(b)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon;

(2) in subparagraph (B), by striking ''and'' after the semicolon; and

(3) by adding at the end thereof the following subparagraphs:

''(C) a description of the activities carried out by the State under section 2616; and

''(D) a description of how the allocation and utilization of resources are consistent with a

statewide coordinated statement of need, developed in partnership with other grantees in the State that receive funding under this title and after consultation with individuals receiving services under this part.''.

SEC. 206. ALLOCATION OF ASSISTANCE BY STATES; PLANNING, EVALUATION, AND ADMINISTRATION.

Section 2618(c) (42 U.S.C. 300ff–28(c)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(3) in paragraph (3) (as so redesignated), by adding at the end the following sentences: ''In the case of entities to which the State allocates amounts received by the State under the grant (including consortia under section 2613), the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).''.

SEC. 207. TECHNICAL ASSISTANCE.

Section 2619 (42 U.S.C. 300ff–29) is amended by inserting before the period the following: '', including technical assistance for the development and implementation of statewide coordinated statements of need''.

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM.

Section 2651(b) (42 U.S.C. 300ff–51(b)) is amended—

(1) in paragraph (1), by inserting before the period the following: '', and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph''; and

(2) in paragraph (4), by inserting after ''nonprofit private entities'' the following: ''(or private for-profit entities, if such entities are the only available providers of quality HIV care in the area)''.

SEC. 302. MINIMUM QUALIFICATIONS OF GRANTEES.

Section 2652(b)(1)(B) (42 U.S.C. 300ff–52(b)(1)(B)) is amended by inserting after ''nonprofit private entity'' the following: ''(or a private for-profit entity, if such an entity is the only available provider of quality HIV care in the area)''.

SEC. 303. MISCELLANEOUS PROVISIONS; PLANNING AND DEVELOPMENT GRANTS.

Section 2654 (42 U.S.C. 300ff–54) is amended by adding at the end thereof the following subsection:

''(c) PLANNING AND DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—The Secretary may provide planning grants, in an amount not to exceed $50,000 for each such grant, to public and nonprofit private entities for the purpose of enabling such entities to provide early intervention services.

''(2) REQUIREMENT.—The Secretary may award a grant to an entity under paragraph (1) only if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 2651.

''(3) PREFERENCE.—In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide HIV primary care services in rural or underserved communities.

''(4) LIMITATION.—Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2655 may be used to carry out this section.''.

SEC. 304. ADDITIONAL REQUIRED AGREEMENTS.

Section 2664(a)(1) (42 U.S.C. 300ff–64(a)(1)) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon; and

(2) by adding at the end the following subparagraph:

''(C) evidence that the proposed program is consistent with the statewide coordinated statement of need and that the applicant will participate in the ongoing revision of such statement of need.''.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 (42 U.S.C. 300ff–55) is amended by striking ''$75,000,000'' and all that follows and inserting ''such sums as may be necessary for each of the fiscal years 1996 through 2000.''.

TITLE IV—GENERAL PROVISIONS

SEC. 401. COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 2671 (42 U.S.C. 300ff–71) is amended—

(1) in subsection (a), by amending the subsection to read as follows:

''(a) IN GENERAL.—

''(1) PROGRAM OF GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the purpose of—

''(A) providing through such entities, in accordance with this section, opportunities for women, infants, and children to be participants in research of potential clinical benefit to individuals with HIV disease; and

''(B) providing to women, infants, and children health care on an outpatient basis.

''(2) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—With respect to the projects of research with which an applicant under paragraph (1) is concerned, the Secretary may not make a grant under such paragraph to the applicant unless the following conditions are met:

''(A) The applicant agrees to make reasonable efforts—

''(i) to identify which of the patients of the applicant are women, infants, and children who would be appropriate participants in the projects; and

''(ii) to offer women, infants, and children the opportunity to so participate (as appropriate), including the provision of services under subsection (f).

''(B) The applicant agrees that the applicant, and the projects of research, will comply with accepted standards of protection for human subjects (including the provision of written informed consent) who participate as subjects in clinical research.

''(C) For the third or subsequent fiscal year for which a grant under such paragraph is sought by the applicant, the Secretary has determined that—

''(i) a significant number of women, infants, and children who are patients of the applicant are participating in the projects (except to the extent this clause is waived under subsection (k)); and

''(ii) the applicant, and the projects of research, have complied with the standards referred to in subparagraph (B).

''(3) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

''(4) CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.—In administering the requirement of paragraph (2)(C)(i), the Secretary shall take into account circumstances in which a grantee under paragraph (1) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.'';

(2) in subsection (c), by amending the subsection to read as follows:

''(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—With respect to eligibility for a grant under subsection (a):

''(1) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research.

''(2) The grant may not be made unless the Secretary makes the following determinations:

''(A) The applicant or other entity (as the case may be under paragraph (1)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

''(B) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention and treatment of HIV disease in women, infants, and children. After consultation with public and private entities that conduct such research, and with providers of services under this section and recipients of such services, the Secretary shall establish a list of such protocols that are appropriate for purposes of this section. The Secretary may give priority under this subparagraph to a research protocol that is not on such list.'';

(3) by striking subsection (i);

(4) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively;

(5) by inserting after subsection (f) the following subsection:

''(g) ADDITIONAL PROVISIONS.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees as follows:

''(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

''(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the State) and in revisions of such statement.'';

(6) by redesignating subsection (j) as subsection (m); and

(7) by inserting before subsection (m) (as so redesignated) the following subsections:

''(j) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under this section, shall require that the projects, as appropriate, enter into arrangements for purposes of this section, and shall require that each project entering into such an arrangement inform the applicant or grantee under this section of the needs of the project for the participation of women, infants, and children.

''(k) TEMPORARY WAIVER REGARDING SIGNIFICANT PARTICIPATION.—

''(1) IN GENERAL.—In the case of an applicant under subsection (a) who received a grant under this section for fiscal year 1995, the Secretary may, subject to paragraph (2), provide to the applicant a waiver of the requirement of subsection (a)(2)(C)(i) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

''(2) TERMINATION OF AUTHORITY FOR WAIVERS.—The Secretary may not provide any waiver under paragraph (1) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

''(l) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (m) for a fiscal year, the Secretary may use not more than five percent to provide training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.''.

(b) CONFORMING AMENDMENTS.—Section 2671 (42 U.S.C. 300ff–71) is amended—

(1) in the heading for the section, by striking ''**DEMONSTRATION**'' and all that follows and inserting ''**COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, AND CHILDREN.**'';

(2) in subsection (b), by striking ''pediatric patients and pregnant women'' and inserting ''women, infants, and children''; and

(3) in each of subsections (d) through (f), by striking ''pediatric'', each place such term appears.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 2671 (42 U.S.C. 300ff–71) is amended in subsection (m) (as redesignated by subsection (a)(6)) by striking ''there are'' and all that follows and inserting the following: ''there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.''.

SEC. 402. PROJECTS OF NATIONAL SIGNIFICANCE.

(a) IN GENERAL.—Part D of title XXVI (42 U.S.C. 300ff–71 et seq.) is amended by inserting after section 2673 the following section:

''SEC. 2673A. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

''(a) IN GENERAL.—The Secretary shall make grants to public and nonprofit private entities (including community-based organizations and Indian tribes and tribal organizations) for the purpose of carrying out demonstration projects that provide for the care and treatment of individuals with HIV disease, and that—

''(1) assess the effectiveness of particular models for the care and treatment of individuals with such disease;

''(2) are of an innovative nature; and

''(3) have the potential to be replicated in similar localities, or nationally.

''(b) CERTAIN PROJECTS.—Demonstration projects under subsection (a) shall include the development and assessment of innovative models for the delivery of HIV services that are designed—

''(1) to address the needs of special populations (including individuals and families with HIV disease living in rural communities, adolescents with HIV disease, Native American individuals and families with HIV disease, homeless individuals and families with HIV disease, hemophiliacs with HIV disease, and incarcerated individuals with HIV disease); and

''(2) to ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

''(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the applicable statewide coordinated statement of need under part B, and the applicant agrees to participate in the ongoing revision process of such statement of need (where it has been initiated by the State).

''(d) REPLICATION.—The Secretary shall make information concerning successful models developed under this section available to grantees under this title for the purpose of coordination, replication, and integration.

''(e) FUNDING; ALLOCATION OF AMOUNTS.—

''(1) IN GENERAL.—Of the amounts available under this title for a fiscal year for each program specified in paragraph (2), the Secretary shall reserve 3 percent for making grants under subsection (a).

''(2) RELEVANT PROGRAMS.—The programs referred to in subsection (a) are the program under part A, the program under part B, the program under part C, the program under section 2671, the program under section 2672, and the program under section 2673.''.

(b) STRIKING OF RELATED PROVISION.—Section 2618 (42 U.S.C. 300ff–28) is amended by striking subsection (a).

SEC. 403. SPECIAL TRAINING PROJECTS.

(a) TRANSFER OF PROGRAM.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by transferring section 776 from the current placement of the section;

(2) by redesignating the section as section 2673B; and

(3) by inserting the section after section 2673A (as added by section 402(a)).

(b) MODIFICATIONS.—Section 2673B (as transferred and redesignated by subsection (a)) is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraphs (B) and (C);

(B) by redesignating subparagraphs (A) and (D) as subparagraphs (B) and (C), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following subparagraph:

''(A) to train health personnel, including practitioners in programs under this title and other community providers, in the diagnosis, treatment, and prevention of HIV disease, including the prevention of the perinatal transmission of the disease and including measures for the prevention and treatment of opportunistic infections;'';

(D) in subparagraph (B) (as so redesignated), by adding ''and'' after the semicolon; and

(E) in subparagraph (C) (as so redesignated), by striking ''curricula and'';

(2) by striking subsection (c) and redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking ''is authorized'' and inserting ''are authorized''; and

(ii) by inserting before the period the following: '', and such sums as may be necessary for each of the fiscal years 1996 through 2000''; and

(B) in paragraph (2)—

(i) by striking ''is authorized'' and inserting ''are authorized''; and

(ii) by inserting before the period the following: '', and such sums as may be necessary for each of the fiscal years 1996 through 2000''.

SEC. 404. EVALUATIONS AND REPORTS.

Section 2674 (42 U.S.C. 300ff–74) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''not later than 1 year'' and all that follows through ''title,'' and inserting the following: ''not later than October 1, 1996,'';

(B) by striking paragraphs (1) through (3) and inserting the following paragraph:

''(1) evaluating the programs carried out under this title; and''; and

(C) by redesignating paragraph (4) as paragraph (2); and

(2) by adding at the end the following subsection:

''(d) ALLOCATION OF FUNDS.—The Secretary shall carry out this section with amounts available under section 241. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.''.

SEC. 405. COORDINATION OF PROGRAM.

Section 2675 of the Public Health Service Act (42 U.S.C. 300ff–75) is amended by adding at the end the following subsection:

''(d) ANNUAL REPORT.—Not later than October 1, 1996, and annually thereafter, the Secretary shall submit to the appropriate committees of the Congress a report concerning coordination efforts under this title at the Federal, State, and local levels, including a statement of whether and to what extent there exist Federal barriers to integrating HIV-related programs.''.

TITLE V—ADDITIONAL PROVISIONS

SEC. 501. AMOUNT OF EMERGENCY RELIEF GRANTS.

Paragraph (3) of section 2603(a) (42 U.S.C. 300ff–13(a)(3)) is amended to read as follows:

''(3) AMOUNT OF GRANT.—

''(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

''(i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

''(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

''(B) DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii), the term 'distribution factor' means the product of—

''(i) an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C); and

''(ii) the cost index for the eligible area involved, as determined under subparagraph (D).

''(C) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

''(i) the number of cases of acquired immune deficiency syndrome in the eligible area during each year in the most recent 120-month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

''(ii) with respect to—

''(I) the first year during such period, .06;

''(II) the second year during such period, .06;

''(III) the third year during such period, .08;

''(IV) the fourth year during such period, .10;

''(V) the fifth year during such period, .16;

''(VI) the sixth year during such period, .16;

''(VII) the seventh year during such period, .24;

''(VIII) the eighth year during such period, .40;

''(IX) the ninth year during such period, .57; and

''(X) the tenth year during such period, .88.

''(D) COST INDEX.—The amount determined in this subparagraph is an amount equal to the sum of—

''(i) the product of—

''(I) the average hospital wage index reported by hospitals in the eligible area involved under section 1886(d)(3)(E) of the Social Security Act for the 3-year period immediately preceding the year for which the grant is being awarded; and

''(II) .70; and

''(ii) .30.

''(E) UNEXPENDED FUNDS.—The Secretary may, in determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the most recent fiscal year for which the amount of such funds can be determined using the required financial status report. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

''(F) PUERTO RICO, VIRGIN ISLANDS, GUAM.—For purposes of subparagraph (D), the cost index for an eligible area within Puerto Rico, the Virgin Islands, or Guam shall be 1.0.''.

SEC. 502. AMOUNT OF CARE GRANTS.

Section 2618 (42 U.S.C. 300ff–28), as amended by section 402(b), is amended by striking subsection (b) and inserting the following subsections:

''(a) AMOUNT OF GRANT.—

''(1) IN GENERAL.—Subject to subsection (b) (relating to minimum grants), the amount of a grant under this part for a State for a fiscal year shall be the sum of—

''(A) the amount determined for the State under paragraph (2); and

''(B) the amount determined for the State under paragraph (4) (if applicable).

''(2) PRINCIPAL FORMULA GRANTS.—For purposes of paragraph (1)(A), the amount determined under this paragraph for a State for a fiscal year shall be the product of—

''(A) the amount available under section 2677 for carrying out this part, less the reservation of funds made in paragraph (4)(A) and less any other applicable reservation of funds authorized or required in this Act (which amount is subject to subsection (b)); and

''(B) the percentage constituted by the ratio of—

''(i) the distribution factor for the State; to

''(ii) the sum of the distribution factors for all States.

''(3) DISTRIBUTION FACTOR FOR PRINCIPAL FORMULA GRANTS.—For purposes of paragraph (2)(B), the term 'distribution factor' means the following, as applicable:

''(A) In the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, the product of—

''(i) the number of cases of acquired immune deficiency syndrome in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data are available; and

''(ii) the cube root of the ratio (based on the most recent available data) of—

''(I) the average per capita income of individuals in the United States (including the territories); to

''(II) the average per capita income of individuals in the State.

''(B) In the case of a territory of the United States (other than the Commonwealth of Puerto Rico), the number of additional cases of such syndrome in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

''(4) SUPPLEMENTAL AMOUNTS FOR CERTAIN STATES.—For purposes of paragraph (1)(B), an amount shall be determined under this paragraph for each State that does not contain any metropolitan area whose chief elected official received a grant under part A for fiscal year 1996. The amount determined under this paragraph for such a State for a fiscal year shall be the product of—

''(A) an amount equal to 7 percent of the amount available under section 2677 for carrying out this part for the fiscal year (subject to subsection (b)); and

''(B) the percentage constituted by the ratio of—

''(i) the number of cases of acquired immune deficiency syndrome in the State (as determined under paragraph (3)(A)(i)); to

''(ii) the sum of the respective numbers determined under clause (i) for each State to which this paragraph applies.

''(5) DEFINITIONS.—For purposes of this subsection and subsection (b):

''(A) The term 'State' means each of the 50 States, the District of Columbia, and the territories of the United States.

''(B) The term 'territory of the United States' means each of the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Republic of the Marshall Islands.

''(b) MINIMUM AMOUNT OF GRANT.—

''(1) IN GENERAL.—Subject to the extent of the amounts specified in paragraphs (2)(A) and (4)(A) of subsection (a), a grant under this part for a State for a fiscal year shall be the greater of—

''(A) the amount determined for the State under subsection (a); and

''(B) the amount applicable under paragraph (2) to the State.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(B), the amount applicable under this paragraph for a fiscal year is the following:

''(A) In the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico—

''(i) $100,000, if it has less than 90 cases of acquired immune deficiency syndrome (as determined under subsection (a)(3)(A)(i)); and

''(ii) $250,000, if it has 90 or more such cases (as so determined).

''(B) In the case of each of the territories of the United States (other than the Commonwealth of Puerto Rico), $0.0.''.

SEC. 503. CONSOLIDATION OF AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—Part D of title XXVI (42 U.S.C. 300ff–71) is amended by adding at the end thereof the following section:

''SEC. 2677. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—For the purpose of carrying out parts A and B, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000. Subject to section 2673A and to subsection (b), of the amount appropriated under this section for a fiscal year, the Secretary shall make available 64 percent of such amount to carry out part A and 36 percent of such amount to carry out part B.

''(b) DEVELOPMENT OF METHODOLOGY.—With respect to each of the fiscal years 1997 through 2000, the Secretary may develop and implement a methodology for adjusting the percentages referred to in subsection (a).''.

(b) REPEALS.—Sections 2608 and 2620 (42 U.S.C. 300ff–18 and 300ff–30) are repealed.

(c) CONFORMING AMENDMENTS.—Section 2605(d)(1) (as redesignated by section 105(3)), is amended by striking ''2608'' and inserting ''2677''.

SEC. 504. ADDITIONAL PROVISIONS.

(a) DEFINITIONS.—Section 2676(4) (42 U.S.C. 300ff–76(4)) is amended by inserting ''funeral-service practitioners,'' after ''emergency medical technicians,''.

(b) MISCELLANEOUS AMENDMENT.—Section 1201(a) (42 U.S.C. 300d(a)) is amended in the matter preceding paragraph (1) by striking ''The Secretary,'' and all that follows through ''shall,'' and inserting ''The Secretary shall,''.

(c) TECHNICAL CORRECTIONS.—Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

(1) in section 2601(a), by inserting ''section'' before ''2604'';

(2) in section 2603(b)(4)(B), by striking ''an expedited grants'' and inserting ''an expedited grant'';

(3) in section 2617(b)(3)(B)(iv), by inserting ''section'' before ''2615'';

(4) in section 2618(b)(1)(B), by striking ''paragraph 3'' and inserting ''paragraph (3)'';

(5) in section 2647—

(A) in subsection (a)(1), by inserting ''to'' before ''HIV'';

(B) in subsection (c), by striking ''section 2601'' and inserting ''section 2641''; and

(C) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking ''section 2601'' and inserting ''section 2641''; and

(ii) in paragraph (1), by striking ''has in place'' and inserting ''will have in place'';

(6) in section 2648—

(A) by converting the heading for the section to boldface type; and

(B) by redesignating the second subsection (g) as subsection (h);

(7) in section 2649—

(A) in subsection (b)(1), by striking ''subsection (a) of''; and

(B) in subsection (c)(1), by striking ''this subsection'' and inserting ''subsection'';

(8) in section 2651—

(A) in subsection (b)(3)(B), by striking ''facility'' and inserting ''facilities''; and

(B) in subsection (c), by striking ''exist'' and inserting ''exists'';

(9) in section 2676—

(A) in paragraph (2), by striking ''section'' and all that follows through ''by the'' and inserting ''section 2686 by the''; and

(B) in paragraph (10), by striking ''673(a)'' and inserting ''673(2)'';

(10) in part E, by converting the headings for subparts I and II to Roman typeface; and

(11) in section 2684(b), in the matter preceding paragraph (1), by striking ''section 2682(d)(2)'' and inserting ''section 2683(d)(2)''.

TITLE VI—EFFECTIVE DATE

SEC. 601. EFFECTIVE DATE.

Except as provided in section 101(a), this Act takes effect October 1, 1995.

Amend the title so as to read: ''An Act to amend the Public Health Service Act to revise and extend programs established pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990.''.

Mr. DOLE. Mr. President, I move that the Senate disagree to the House amendments and request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. FRIST, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

APPOINTMENT OF CONFEREES—H.R. 2076

The PRESIDING OFFICER. Mr. President, I understand that pursuant to the order of September 29, 1995, the Chair is authorized to appoint conferees on the part of the Senate for H.R. 2076, the Commerce, Justice, State appropriations bill for fiscal year 1996.

The PRESIDING OFFICER appointed Mr. GREGG, Mr. HATFIELD, Mr. STEVENS, Mr. DOMENICI, Mr. MCCONNELL, Mr. JEFFORDS, Mr. COCHRAN, Mr. HOLLINGS, Mr. BYRD, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. KERREY of Nebraska conferees on the part of the Senate.

JERUSALEM EMBASSY RELOCATION IMP

DING OFFICER appointed Mr. GREGG, Mr. HATFIELD, Mr. S

Mr. DOLE. Mr. President, I understand that S. 1322, introduced earlier by myself is at the desk.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the first time.

The bill (S. 1322) was read the first time.

Mr. DOLE. Mr. President, I ask for its second reading.

Mr. BYRD. Mr. President, I have been asked to object and do object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, as indicated, I have introduced S. 1322, the Jerusalem Embassy Relocation Act of 1995. I am pleased to do so with the distinguished senior Senator from New York, Senator MOYNIHAN, as the lead cosponsor. As the Senate knows, Senator MOYNIHAN has been the expert and the leader on Jerusalem for his entire career. I am pleased that he has joined with Senator KYL, Senator INOUYE and other cosponsors in this important legislation. I would like to take special note of the roles of Senator KYL and Senator INOUYE in developing this legislation, and in agreeing to the changes included today.

This legislation is very similar to S. 770, introduced on May 9, 1995. S. 770

currently has 62 cosponsors—and 61 of them are included on the legislation I am introducing today. There is one major change between S. 770 and S. 1322—the provision requiring groundbreaking in 1996 for construction of a new Embassy has been deleted, and minor or conforming changes have been made. All major provisions are identical: Findings on the importance of Jerusalem, statement of policy on recognizing Jerusalem as the capital of Israel, semiannual reporting requirements, and, most important, the requirement that the American Embassy be open in Jerusalem no later than May 31, 1999.

A number of Members expressed concern about the potential impact of the requirement for breaking ground on construction next year. Clearly 62 percent of the Senate was comfortable with the provision. The lead cosponsor, Senator KYL, felt particularly strongly about some action occurring next year—the 3000th anniversary of Jerusalem. But Senator KYL and the other cosponsors have agreed to remove the requirement in the interests of gaining even broader support.

All of us in the Senate are aware of the possible impact our actions could have on the peace process in the Middle East. We want the peace process to succeed. As I said upon introducing S. 770, ''the peace process has made great strides and our commitment to that process in unchallengeable.'' Last spring, the fate of the declaration of principles ''Phase II'' agreement was very much up in the air. The July deadline was missed. The August deadline was missed. Fortunately, the Oslo II accord was signed last month. Implementation is underway. While always subject to disruption and always under attack from extremists, the pace process is working. The toughest issues are yet to be resolved in final status talks, including Jerusalem.

In my view, the United States does not have to wait for the end of final status talks to begin the process of moving the United States Embassy to Jerusalem. As both S. 770 and today's legislation state: ''Jerusalem should be recognized as the capital of Israel and the United States Embassy should be officially open in Jerusalem no later than May 31, 1999.'' In my view, we should begin the process of moving now and we should conclude it by May 31, 1999. That is the bottom line, and that is what S. 1322 does.

In the 5 months since the introduction of S. 770, the Clinton administration has done nothing to bridge our differences. A questionable legal opinion was offered and a veto threat was made, but no substantive contacts have occurred. Not one. I am disappointed the administration has ignored what is obviously a strong bipartisan majority in the Senate. I am disappointed the administration has made no effort at all to communicate with the lead sponsors of this legislation. Our hope is to unify, not to divide, on the sensitive issue of Jerusalem. Our hope is to move ahead on this issue. Our hope is the administration will support the legislation to move the Embassy. In 2 weeks, Prime Minister Rabin, mayor of Jerusalem Olmert and hundreds of others will assemble in the rotunda of the U.S. Capitol to commemorate the 3000th anniversary of Jerusalem. Many of us noted that the American Ambassador to Israel could not find the time to attend opening ceremonies for the 3000th anniversary of Jerusalem in Israel. I am confident that the Congress will celebrate this historic event in a much more appropriate manner.

In the coming days I expect additional cosponsors will be added to the Jerusalem embassy legislation. I also expect decisions to be made in the administration and in the Congress about how and when to proceed with this legislation.

I ask unanimous consent that a legal analysis supporting the constitutionality of this legislation along with a comparison of S. 770 and S. 1322, be printed in the RECORD following my remarks.

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

[From the Legal Time, Oct. 9, 1995]

CAN CONGRESS MOVE AN EMBASSY?

(By Malvina Halberstam)

This year marks 3,000 years since Jerusalem was first established as the capital of a Jewish state, by King David. Although the city has been ruled by many empires and states since then, it has never been the capital of any other country. It was formally reestablished as the capital of Israel in 1950. In a fitting tribute to the 3,000th anniversary, Sens. Robert Dole (R–Kan.) and Jon Kyl (R–Ariz.) introduced a bill on May 9 of this year to move the U.S. embassy from Tel Aviv to Jerusalem.

Besides the policy issue, which have been the subject of considerable debate, the Dole-Kyl bill raises interesting questions concerning the scope of congressional and executive authority in the conduct of foreign affairs, and the extent to which Congress can use its appropriations power to influence executive action in this area.

The proposed Jerusalem Embassy Relocation Implementation Act, which has 60 cosponsors, makes a number of findings, including that Jerusalem has been the Israeli capital since 1950 and that the United States maintains its embassy in the functioning capital of every country except Israel. The bill declares it to be U.S. policy to recognize Jerusalem as the capital of Israel, to begin breaking ground for construction of the embassy in Jerusalem no later than Dec. 31, 1996, and officially to open the embassy no later than May 31, 1999.

The provides that at least $5 million in 1995, $25 million in 1996, and $75 million in 1997 of the funds authorized to be appropriated for the State Department's acquisition and maintenance of buildings abroad shall be made available for the construction and other costs associated with the relocation. It further provides that not more than 50 percent of those funds appropriated in 1997 may be obligated until the secretary of state reports to Congress that construction has begun and that not more than 50 percent of the funds appropriated in 1999 may be obligated until the secretary reports to Congress that the Jerusalem embassy has officially opened.

President Bill Clinton has opposed the legislation on policy grounds, and the Justice Department has prepared a memorandum arguing that the bill is unconstitutional. Essentially, the department argues (1) that the bill interferes with the president's power to conduct foreign affairs and make decisions pertaining to recognition, and (2) that the bill is an inappropriate exercise of Congress' appropriations power because it includes an unconstitutional condition.

THE ''FOREIGN AFFAIRS'' POWER

Contrary to popular impression, the Constitution does not vest the foreign affairs power in the president. It does not vest the foreign affairs power in any branch. Indeed, it makes no reference to ''foreign affairs.''

The Constitution vests some powers that impact on foreign affairs in the president, others in the president and the Senate jointly, and still others in Congress. It provides that the president ''shall receive ambassadors.'' It gives him the power to appoint ambassadors, but only with the advice and consent of the Senate, and to make treaties, provided two-thirds of the senators concur.

The Constitution also gives Congress a number of powers affecting foreign affairs, including the power to ''regulate commerce with foreign nations''; to ''establish uniform rules of naturalization''; to ''coin money and regulate the value thereof, and of foreign coin''; to ''define and punish piracies and felonies committed on the high seas, and offenses against the law of nations''; to ''declare war, grant letters of marque and reprisal, and make rules concerning capture on land and water''; and to ''raise and support armies,'' and ''provide and maintain a navy.'' As Edward Corwin put it in The President: Office and Powers, 1787–1984, ''the Constitution . . . is an invitation to struggle for the privilege of directing American foreign policy.''

Probably the most comprehensive Supreme Court discussion of the foreign affairs power is Justice George Sutherland's opinion in United States v. Curtiss-Wright Export Corp. (1936). In that case, the Court sustained a statute authorizing the executive to order an embargo on arms to Brazil—a delegation of congressional authority unacceptable at that time with respect to domestic regulation. Sutherland argued that in foreign affairs, as distinct from domestic affairs, the authority of the federal government does not depend on a grant of power from the states. Turning to the specific issue before the Court, the president's authority to declare an embargo, Sutherland stated, ''We are dealing here not alone with an authority vested in the President by exercise of legislative power, but with such an authority plus the very delicate plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations.''

In addition to making no reference to ''foreign affairs,'' the Constitution also makes no reference to ''recognition'' of foreign states. The provision that the president ''shall receive ambassadors,'' now considered the basis of the president's power over recognition, was described by Alexander Hamilton in Federalist No. 69 as ''more a matter of dignity than of authority'' and ''a circumstance which will be without consequence.''

Historically, however, presidents have made decisions on recognition, starting with George Washington's recognition of the French Republic. In United States v. Belmont (1937) and United States v. Pink (1942), the Supreme Court implicitly accepted the executive's authority over recognition when it held that an executive agreement recognizing the Soviet government and providing for settlement of claims between the

United States and the Soviet Union superseded inconsistent state law.

Both the Court's reference to the president's broad foreign affairs powers in Curtiss-Wright (and other cases cited in the Justice Department memo), and the Court's implied acceptance of the executive's authority to recognize foreign governments to Belmont and Pink were made in situations in which Congress either delegated authority to the executive or was silent. None involved a conflict between Congress and the president.

FLUCTUATING AUTHORITY

Indeed, the Supreme Court has never held that Congress could not exercise one of its constitutional powers because doing so would interfere with the president's conduct of foreign affairs. The Court has held the converse: that presidential action, which might have been constitutional if Congress had not acted, was unconstitutional because it was inconsistent with legislation enacted by Congress. In Youngstown Sheet and Tube Co. v. Sawyer (1952), the Court held that, notwithstanding his constitutional power as commander in chief, President Harry Truman's seizure of the steel mills to ensure that a threatened strike did not stop the production of steel needed for the Korean War, was illegal because it was inconsistent with the Taft-Hartley Act for resolving labor disputes. Justice Robert Jackson, who had been President Franklin Roosevelt's attorney general and was a strong proponent of broad executive authority, concurred in what has become the classic statement on the relationship between executive and legislative power. Jackson wrote: Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . .

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all the Congress can delegate. In these circumstances, and in these only, may he be said (for what it may be worth) to personify the federal sovereignty. If his act is held unconstitutional under these circumstances, it usually means that the Federal Government as an undivided whole lacks power. . . .

2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution in uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.

3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.

Justice Jackson cited Curtiss-Wright as an example of the first class of cases and noted that ''that case involved not the President's power to act without Congressional authority, but the question of his authority to act under and in accord with an Act of Congress.'' Jackson concluded, ''It was intimated that the President might act in external affairs without congressional authority, but not that he might act contrary to an Act of Congress.''

Admittedly, the Dole-Kyl bill does not explicitly require the president to relocate the embassy to Jerusalem. However, the findings that Jerusalem is the Israeli capital and that Israel is the only state in which the U.S. embassy is not in the capital, the assertion that it is U.S. policy that the embassy be in Jerusalem, the allocation of funds for relocation and construction of an embassy there, and the prohibition on the use of some funds appropriated to the State Department if construction is not started by December 1996 and completed by May 1999, all clearly indicate the purpose of Congress to commence construction of a U.S. embassy in Jerusalem no later than December 1996 and to open that embassy no later than May 1999.

THE JACKSON ANALYSIS

Under the Jackson analysis, were the president to take ''measures incompatible with the expressed or implied will of Congress,'' his power would be ''at its lowest ebb.'' He could ''rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.'' Such exclusive presidential control could be sustained ''only by disabling the Congress from acting upon the subject.'' While the question has never been decided, it is unlikely that a court would hold that the president's authority to receive ambassadors (his power to appoint ambassadors requires the advice and consent of the Senate), minus the power of Congress under the necessary and proper clause and the spending clause of Article I, is sufficient to disable Congress from acting upon the subject.

Both the necessary and proper clause and the spending clause have been broadly interpreted to permit Congress to legislate on a wide range of matters. Neither limits congressional action to the matters enumerated in Article 1, §8.

The necessary and proper clause authorizes Congress to make not only all laws necessary and proper to implement the enumerated powers of Congress, but all laws necessary and proper to execute all powers vested in the government of the United States or in any department or office thereof. Thus, even if recognition were deemed an executive power—on the basis of historical precedent, if not constitutional provision—Congress has the power under this clause to enact legislation concerning the location of U.S. embassies.

The Dole-Kyl bill is also clearly a proper exercise of Congress' spending power. That the use of the spending power is not limited to those areas that Congress can otherwise regulate was made clear in United States v. Butler (1936). Justice Owen Roberts, writing for the majority, stated, [The first clause of Article I, §8] confers a power separate and distinct from these later enumerated, is not restricted in meaning by the grant of them, and Congress consequently has a substantive power to tax and to appropriate, limited only by the requirement that it shall be exercised to provide for the general welfare of the United States [emphasis added].

The Justice Department memo argues, correctly, that Congress cannot use the spending power to impose unconstitutional conditions. Thus, the Supreme Court has held that Congress cannot use the appropriations power to violate the establishment clause of the First Amendment, Flast v. Cohen (1968); the compensation clause in Article III, United States v. Will (1980); or the prohibition on bills of attainder in Article I, §9, United States v. Lovett (1946). The principle that has emerged is that Congress cannot use the spending power to achieve that which the Constitution prohibits. But neither appropriating funds for relocation and construction of an embassy nor limiting expenditure of funds appropriated for the acquisition and maintenance of buildings abroad if construction is not started and completed on specified dates violates any prohibition of the Constitution.

The Justice memo relies on Butler, the only case in which the Court has held a federal appropriation invalid because of the unconstitutionality of a condition that did not involve infringement of individual rights. In that case, decided more than half a century ago, the majority took the position that Congress could not use federal funds to induce states to enact regulations that Congress could not enact under its enumerated powers. Within a year of that decision, however, the Court (in Steward Machine Co. v. Davis and Helvering v. Davis (1937) sustained conditional appropriations in areas outside the scope of Congress' enumerated powers. Since then, Congress has enacted numerous statutes in which it used the spending power to achieve results that it could not have achieved by regulating directly.

Most recently, in South Dakota v. Dole (1987), the Supreme Court rejected a state argument that Congress could not use federal highway funding to achieve a national minimum drinking age because the 21st Amendment gave the states the power to make that decision. After reviewing its earlier decisions, the Court stated, These cases establish that the ''independent constitutional bar'' limitation on the spending power is not, as petitioner suggests, a prohibition on the indirect achievement of objectives which Congress is not empowered to achieve directly. Instead, we think that the language in our earlier opinions stands for the unexceptionable proposition that the power may not be used to induce the States to engage in activities that would themselves be unconstitutional.

CONGRESS' POWER OF THE PURSE

Moreover, in Butler the Court held that Congress could not use the spending power to limit states' rights. The Court has never held that Congress cannot limit the proper exercise of power by another branch of the federal government through the use of its appropriations authority unless the matter falls within Congress' enumerated powers. Such a holding would vitiate one of the most important—if not the most important—of the checks and balances: Congress' power of the purse. As the U.S. District Court for the District of Columbia stated in United States v. Oliver North (1988), [t]hough the parameters of Congress' powers may be contested, Congress surely has a role to play in aspects of foreign affairs, as the Constitution expressly recognizes and the Supreme Court of the United States has affirmed. The most prominent among those Congressional powers is of course the general appropriations power.

That Congress can use the spending power to limit the executive's constitutional powers is well established. Consider, for example, the president's power as commander in chief. Although the Constitution provides that the president shall be commander in chief, and the Supreme Court stated almost 150 years ago that this encompasses the power ''to direct the movements of the naval and military forces at his command and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy'' (*Fleming v. Page* (1850)), Congress has repeatedly used its funding power to limit military action by the president. Indeed, in some of the challenges to the

Vietnam War, courts have stated that Congress' failure to prohibit the president from using funds for the war (or for certain aspects of it) constituted authorization. If Congress can exercise its appropriations power to limit the president's power as commander in chief—a power specifically provided for in the Constitution—a fortiori it can exercise the appropriations power to limit the president's foreign affairs power—a power not expressly vested in the president, but implied from other powers and shared with Congress.

Since World War II, Congress has consistently used appropriations as a means of controlling some aspects of foreign policy. In 1989, commentator Louis Fisher characterized the assertion that Congress cannot control foreign affairs by withholding appropriations as ''*the* most startling constitutional claim emanating from the Iran contra hearings'' (''How Tightly Can Congress Draw the Purse Strings?'' *American Journal of International Law*). Or, as Professor John Hart Ely put it in his 1993 book, *War and Responsibility: Constitutional Lessons of Vietnam and Its Aftermath*, assertions ''that foreign affairs just aren't any of Congress's business . . . bear no relation to the language or purposes of the founding document, or the first century and a half of our history.''

EVEN KISSINGER CONCEDED

Even strong proponents of broad executive power in foreign affairs agree that Congress can use the appropriations power to affect the conduct of foreign affairs. Professor Louis Henkin, chief reporter for the latest Restatement of U.S. Foreign Relations Law, has written, ''Congress has insisted and presidents have reluctantly accepted that in foreign affairs as in domestic affairs, spending is expressly entrusted to Congress. . . .'' And then Secretary of State Henry Kissinger conceded, following the executive confrontations with Congress during the Vietnam War: The decade long struggle in this country over executive dominance in foreign affairs is over. The recognition that Congress is a coequal branch of government is the dominant fact of national politics today. The executive accepts that Congress must have both the sense and the reality of participation foreign policy must be a shared enterprise.

Whatever the respective powers of Congress and the president to decide whether to recognize a foreign state—a question on which the Constitution is silent and the Supreme Court has never ruled—that issue is not raised by the Dole-Kyl bill. Rather, the issues are whether Congress can enact legislation that may affect U.S. foreign policy interests, and whether it can achieve its ends through use of the appropriations power. Long-established practice, the writings of scholars and statesmen, and judicial decisions all indicate that the answer to both is clearly yes.

COMPARISON OF S. 770 AND S. 1322

The withholding of funds pending groundbreaking for a new embassy in Jerusalem in 1996 has been deleted (Section 3(a)(2) and section 3(b) of S. 770).

A new finding concerning a 1990 resolution on Jerusalem passed by Congress has been added (finding 9 of S. 1322).

The statement of policy has been amended to include reference to Jerusalem being undivided and open to all ethnic and religious groups.

The statement of policy has been re-worded to use ''relocated'' rather than ''officially open'' in reference to the Embassy (section 3).

Fiscal Year 1995 funding (section 4 of S. 770) has been deleted.

Funding for relocation costs in fiscal year 1996 and fiscal year 1997 has been modified to be discretionary rather than mandatory (section 4 of S. 1322).

Mr. LIEBERMAN. Mr. President, I rise today to join with Senators DOLE, MOYNIHAN, KYL and INOUYE and most of my other colleagues in introducing the Jerusalem Embassy Relocation Implementation Act, S. 1322. I hope that this bill will gain the support of all of my colleagues in the Senate.

Mr. President, Jerusalem is and always shall be the capital of Israel. Jerusalem is a unified city in which the rights of all faiths have been respected. The Embassy of the United States of America to Israel should be in that country's capital, the city of Jerusalem.

Earlier this year, I joined with many of my colleagues in sending a letter to the Secretary of State encouraging the administration to begin planning for relocation of the U.S. Embassy to the city of Jerusalem. This process must move forward.

The bill we are introducing today establishes U.S. policy that Jerusalem should be recognized as the capital of the state of Israel.

The bill also establishes a timetable for construction and relocation of the U.S. Embassy to Israel in Jerusalem by May 31, 1995. The Secretary of State is required to present an implementation plan to the Senate within 30 days of enactment and provide a progress report every 6 months. The bill allocates substantial initial funding for the project—$25 million in fiscal 1996 and $75 million in fiscal 1997.

Like the President and many of my colleagues, I believe we can and should move forward to establish the U.S. Embassy in Jerusalem in a manner consistent with the continued negotiation and implementation of the peace process which achieved another significant step last month. The modification to this legislation from the version earlier introduced, S. 770, will ensure that this can be accomplished. There is no change in the real result of the bill: The opening of the U.S. Embassy in Jerusalem by May 31, 1999.

Mr. President, the Jerusalem 3,000 celebration underway in Israel and throughout the world commemorates the 3,000th anniversary of King David's entry into Jerusalem. There could be no more fitting occasion than this celebration to commit America to finally establish our Embassy in Jerusalem by the end of the decade.

With the adoption of the Jerusalem Embassy Relocation Implementation Act and continued progress in the peace process, we can enter the 21st century with the U.S. Embassy in Jerusalem, the capital of a safe and secure Israel, at peace with her Arab neighbors, in an economically prosperous Middle East.

ORDERS FOR TUESDAY, OCTOBER 17, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45, Tuesday, October 17, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for 5 minutes each, with the exception of the following: Mr. LOTT, 30 minutes; Mr. THOMAS, 60 minutes; Mr. HARKIN and Mr. SIMON, 45 minutes; Mr. BURNS, 10 minutes; Mr. FRIST, 15 minutes.

I further ask unanimous consent that at the hour of 12:30 p.m., the Senate stand in recess until the hour of 2:15 p.m. for the weekly policy luncheons to meet.

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

Mr. DOLE. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the substitute amendment to H.R. 927, the Cuban sanctions bill, occur at a time to be determined by the majority leader after consultation with the minority leader; I further ask unanimous consent that in accordance with the provisions of rule XXII, Senators have until the hour of 12:30 on Tuesday to file any second-degree amendments to the substitute amendment to H.R. 927.

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

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, if cloture is invoked on Tuesday, the Senate can be expected to be in session into the evening in order to complete action on the Cuban sanctions bill. A third cloture motion was filed today. Therefore, if cloture is not invoked on Tuesday, a third vote will occur during Wednesday's session.

Also during next week's session, the Senate can be expected to consider any of the following items: Labor HHS appropriations bill, if a consent agreement can be reached after brief consideration; NASA authorization; Amtrak authorization; available appropriations conference reports.

I am also going to announce that the first cloture vote will not be before 5 p.m. on Tuesday. To clarify, there will not be any votes until 5 p.m.

Let me also announce that under the able leadership of Senator ROTH of the Senate Finance Committee, the Republicans have completed action on the tax part of the reconciliation package—$245 billion in tax cuts; as far as family tax credits, $500. It is permanent.

There are a lot of good features in this bill: capital gains rate reduction, estate tax, family, health, businesses, a number of provisions that I think the American people will certainly find to their liking. I want to compliment the distinguished chairman of the Finance Committee. This is his first tax bill.

Last week, we were working on our goal to reach the reconciliation package on the budget resolution. I congratulate Senator ROTH from Delaware. He has done an outstanding job in a very short time.

It is my understanding that hopefully some time next week the full Senate Finance Committee will meet for markup on the tax provisions of the bill, and we will be able to take up the reconciliation package on the Senate floor, hopefully on Tuesday, October 24, under a 20-hour time agreement. So we should finish it without much difficulty that week.

I will say that everybody wants us to complete action on welfare reform. It is my hope on Tuesday we will be in a position to appoint conferees. I am advised by the Democratic leader that that may be possible on Tuesday. I hope that is the case.

We need to work very quickly on trying to reach some accommodation with the House and hopefully have the same strong bipartisan support we had on the vote in the Senate when the vote was 87 to 12, with one absentee. I hope we can come back to the Senate with a bill that can be supported by every one of the 87, plus maybe some of the others.

RECESS UNTIL 9:45 A.M., TUESDAY, OCTOBER 17, 1995

Mr. DOLE. 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 3:52 p.m., recessed until Tuesday, October 17, 1995, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1995:

DEPARTMENT OF STATE

DAVID P. RAWSON, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

GERALD WESLEY SCOTT, OF OKLAHOMA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA

RALPH R. JOHNSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

ROBERT E. GRIBBIN III, OF ALABAMA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be captains

ANDREW M. SNELLA
EVELYN J. FIELDS
KENNETH W. PERRIN
TERRANCE D. JACKSON

To be commanders

MARLENE MOZGALA
ERIC SECRETAN
ROBERT W. MAXSON
GARY D. PETRAE
JAMES C. GARDNER, JR.
RICHARD R. BEHN
DANIEL R. HERLIHY
GARY P. BULMER
DAVID J. KRUTH
DENNIS A. SEEM
PAUL E. PEGNATO
GEORGE E. WHITE
JONATHAN W. BAILEY
TIMOTHY B. WRIGHT
BRADFORD L. BENGGIO
RICHARD S. BROWN
MICHAEL W. WHITE
GRADY H. TUELL
PAUL T. STEELE
GARNER R. YATES, JR.
CRAIG N. MCLEAN
PHILIP M. KENUL

To be lieutenant commanders

MICHAEL R. LEMON
JEFFREY A. FERGUSON
PHILIP S. HILL
WILLIAM B. KEARSE
JOHN E. HERRING
JAMES S. VERLAQUE
WILTIE A. CRESWELL. III
JAMES D. RATHBUN
MATTHEW H. PICKETT
CHRISTOPHER A. BEAVERSON
BRIAN J. LAKE
CARL R. GROENEVELD
GUY T. NOLL

To be Lieutenants

WILBUR E. RADFORD, JR.
JAMES A. ILLG
STEVEN A. LEMKE
DOUGLAS G. LOGAN
CHRISTOPHER J. WARD
MICHAEL J. HOSHLYK
DENISE J. GRUCCIO
MICHELE A. FINN
MATTHEW J. WINGATE
CYNTHIA M. RUHSAM
PHILIP A. GRUCCIO
BARRY K. CHOY
MICHAEL D. FRANCISCO
RALPH R. ROGERS
MARK P. MORAN
KIMBERLY R. CLEARY
PAMELA K. HAINES
GEOFFREY S. SANDORF
KATHARINE A. MCNITT
ALAN C. HILTON
RICHARD R. WINGROVE
BJORN K. LARSEN
HAROLD E. ORLINSKY
MICHAEL S. WEAVER
DOUGLAS D. BAIRD, JR.
THOMAS R. JACOBS
GRAHAM A. STEWARD
STEPHEN C. TOSINI
JAMES S. BOSSHARDT
JULIANA PIKULSKY
STEPHEN S. MEADOR
LAWRENCE E. GREENE
DANIEL S. MORRIS, JR.
CARRIE L. HADDEN
KELLY G. TAGGART
JOHN C. GEORGE
PATRICK V. GAJDYS
KARL F. MANGELS
DANTE B. MARAGNI
HEIDI L. JOHNSON
DAVID A. SCORE
STEPHEN F. BECKWITH
KENNETH A. BALTZ
VICTOR B. ROSS, III
MARK S. HICKEY
RANDALL J. TEBEEST
MARK J. BOLAND
HEATHER A. PARKER
CAROLYN M. SRAMEK
JAMES E. DAVIS-MARTIN
STEPHEN J. THUMM
KURT F. SHUBERT
JONATHAN M. KLAY
JOSEPH G. EVJEN
ANITA L. LOPEZ
ANNE K. NIMERSHIEM
RICHARDO RAMOS
MICHAEL WILLIAMSON
NEIL D. WESTON
JENNIFER A. YOUNG

To be ensigns

JEFFREY C. HAGAN
ERIC J. SIPOS
PETER C. FISCHEL
WILLIAM R. ODELL
JAMES M. CROCKER
JEREMY M. ADAMS
CHRISTOPHER E. H. PARRISH
JOEL R. BECKER
JESSICA J. WALKER
JOEL T. MICHALSKI
DAWN M. WELCHER
CHRISTINE M. SHIBLEY
LESLIE A. REDMOND
RICHARD H. ALDRIDGE
RAYMOND A. SANTOS
KURT A. ZEGOWITZ
MARK A. SRAMEK
NATALIE G. BENNETT
ERIC J. CHRISTENSEN
RUSSELL C. JONES
JENNIFER D. GARTE

EXTENSIONS OF REMARKS

H.R. 1715—LEGISLATIVE INTENT ON SUBSTITUTE

HON. WILLIAM F. GOODLING
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. GOODLING. Mr. Speaker, next week the House is scheduled to consider H.R. 1715. At that time I plan to offer a substitute to the version of H.R. 1715 that passed the Economic and Educational Opportunities Committee. I am pleased to be joined in offering the substitute by the ranking member, Mr. CLAY and the chairman and ranking member of the Subcommittee on Workforce Protections, Mr. BALLENGER and Mr. OWENS. Following is the substitute to H.R. 1715 which will be offered to the House and a statement of legislative intent which I offer on behalf of myself, and Representatives CLAY, BALLENGER, and OWENS.

JOINT STATEMENT OF LEGISLATIVE INTENT ON SUBSTITUTE TO H.R. 1715

Section 1 reverses the effect of the decision of the United States Supreme Court in Adams Fruit Company, Inc. v. Barrett 494 U.S. 638(1990). The Supreme Court held that an action for damages under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) was preserved and could be maintained by injured farm workers, even though the farm workers were covered under State workers' compensation for the same injuries suffered in the course of employment for the Adams Fruit Company.

Section 1 amends MSPA to provide that where workers' compensation coverage is secured under a State worker's compensation law for a migrant or seasonal agricultural worker, workers' compensation shall be the farm worker's exclusive remedy, and the employer's sole liability under MSPA for bodily injury or death. Section 1 reinstates and makes permanent a change in law that was temporarily in effect from October 6, 1992 to July 6, 1993, pursuant to Section 325(c) of Public Law 102–392.

Section 1 bars actions under MSPA for actual damages for injuries suffered by a farm worker where State workers' compensation is applicable and coverage is provided. It does not bar actions under MSPA for statutory damages or for equitable relief so long as such equitable relief does not include back or front pay, or expand, alter or affect rights or recoveries under State workers' compensation laws. Nothing in the bill is intended to limit the inherent authority of a court to impose sanctions where the court finds a defendant in contempt of court for refusing to comply with a court order. Further, nothing in the bill is intended to bar a party from maintaining an action under State law which is not precluded by the State's workers' compensation law. These amendments are intended to incorporate into MSPA the full preclusive effect of the State's workers' compensation law, but not to create a broader preclusive effect in MSPA than is provided by the States' workers' compensation law.

Section 1 is applicable to all cases and claims under MSPA in which a final judgment has not yet been entered.

Section 2 provides for increased statutory damages under MSPA in certain cases where (1) actual damages are precluded because of the plaintiff's coverage under State workers' compensation law provided in section 1 of the bill, and (2) the circumstances and the defendant's actions meet any one of four sets of criteria described in the bill. In those cases, the maximum award of statutory damages is increased from up to $500 to up to $10,000 per plaintiff per violation.

The bill provides that multiple infractions of a single provision of MSPA shall constitute only one violation per plaintiff for purposes of the statutory damages provided in section 2. This language is identical to and should be construed the same as present language in section 504(c)(1) of MSPA.

Section 2 is applicable to claims for statutory damages under MSPA on which a final judgment has not been entered, as well as to future claims for such damages.

Section 3 provides for tolling of the statute of limitations on actions brought under MSPA during the time period in which a claim under a State workers' compensation law is pending. Specifically, the purpose of this provision is two-fold: first, it tolls the applicable statute of limitations governing a suit for actual damages for bodily injury or death under MSPA while a determination is being made whether the State workers' compensation law was applicable to the injury or death. Second, it tolls the statute of limitations governing claims which arise out of the same transaction or occurrence but which do not implicate workers' compensation. It intends to avoid forcing parties to split their claims into two suits, litigating their nonbodily injury claims in one lawsuit in order to preserve these claims under the applicable statute of limitations and then later litigating the injury claims in another lawsuit, if it were subsequently determined under State workers' compensation law that the injury was not covered.

Section 4 requires disclosure of information regarding workers' compensation coverage to migrant agricultural workers and, upon request, to seasonal agricultural workers. The purpose of this amendment is to help ensure that farm workers have sufficient information to know whether workers' compensation insurance is provided, who is providing it and how to file timely workers' compensation claims where workers' compensation is provided. Compliance with this disclosure requirement may be met by giving the migrant or seasonal agricultural workers a photocopy of any notice regarding workers' compensation which state law requires that the workers receive. The amendment is not intended to modify the joint employment doctrine which determines employment relationships under MSPA.

Section 5 pertains to the level of liability insurance required by the Department of Labor by employers engaged in transportation of migrant and/or seasonal agricultural workers. Current DOL regulations (29 CFR 500.121.(b)) require that the vehicle liability insurance carried by covered employers engaged in transporting migrant and/or seasonal farm workers be no less than the amount established by the Interstate Commerce Commission (ICC) for carriers which transport passengers. Because of the difficulty many of those governed by this requirement experienced in obtaining the insurance limits established by the ICC and applicable to MSPA as of February 1, 1992, this provision allows the Secretary of Labor to determine the appropriate insurance levels based upon the statutory criteria set forth in 401(b)(2)(B), which consider, among other factors, the protection of the health and safety of migrant and seasonal farmworkers and the extent to which the insurance standard would cause an undue burden on agricultural employers and associations or farm labor contractors.

It is necessary to reaffirm that voluntary carpool arrangements established by workers for their mutual economy and convenience are not subject to the Act's transportation and insurance requirements.

Workers participating in voluntary carpool arrangements should not be deemed farm labor contractors under MSPA merely because they receive remuneration from fellow workers to defray the cost of transportation. Employers, agricultural associations and farm labor contractors for whom voluntary carpoolers (as defined in the Department of Labor's regulations) work shall not be subject to transportation-related liability or liability for employment of an unregistered farm labor contractor under MSPA for employing such carpoolers.

H.R. 1715

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

SECTION 1. WORKERS' COMPENSATION.

(a) AMENDMENTS.—

(1) Section 325 of the Legislative Branch Appropriations Act, 1993 (Public Law 102-392) is repealed.

(2) Section 504(d) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854(d)) is amended to read as follows:

''(d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to all cases in which a final judgment has not been entered.

SEC. 2. EXPANSION OF STATUTORY DAMAGES.

(a) AMENDMENT.—Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended by adding after subsection (d) the following:

''(e) If the court finds in an action which is brought by or for a worker under subsection (a) in which a claim for actual damages is precluded because the worker's injury is covered by a State workers' compensation law as provided by subsection (d) that—

''(1)(A) the defendant in the action violated section 401(b) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of migrant or seasonal agricultural workers while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act(21 U.S.C. 802)) and the defendant had actual knowledge of the driver's condition, and

''(B) such violation resulted in injury to or death of the migrant or seasonal worker by or for whom the action was brought and such injury or death arose out of and in the course of employment as determined under the State workers' compensation law,

''(2)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b) which the defendant was determined in a previous judicial or administrative proceeding to have violated, and

''(B) such safety violation resulted in an injury or death described in paragraph (1)(B),

''(3)(A)(i) the defendant willfully disabled or removed a safety device prescribed by the Secretary under section 401(b), or

''(ii) the defendant in conscious disregard of the requirements of section 401(b) failed to provide a safety device required under such section, and

''(B) such disablement, removal, or failure to provide a safety device resulted in an injury or death described in paragraph (1)(B), or

''(4)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b),

''(B) such safety violation resulted in an injury or death described in paragraph (1)(B), and

''(C) the defendant at the time of the violation of section 401(b) also was—

''(i) an unregistered farm labor contractor in violation of section 101(a), or

''(ii) a person who utilized the services of a farm labor contractor of the type specified in clause (i) without taking reasonable steps to determine that the farm labor contractor possessed a valid certificate of registration authorizing the performance of the farm labor contracting activities which the contractor was requested by or permitted to perform with the knowledge of such person,

the court shall award not more than $10,000 per plaintiff per violation with respect to whom the court made the finding described in paragraph (1), (2), (3), or (4), except that multiple infractions of a single provision of this Act shall constitute only one violation for purposes of determining the amount of statutory damages due to a plaintiff under this subsection and in the case of a class action, the court shall award not more than the lesser of up to $10,000 per plaintiff or up to $500,000 for all plaintiffs in such class action.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all cases in which a final judgment has not been entered.

SEC. 3. TOLLING OF STATUTE OF LIMITATIONS.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854), as amended by section 2, is amended by adding after subsection (e) the following:

''(f) If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of a migrant or seasonal agricultural worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (a) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for other actual damages, statutory damages, or equitable relief arising out of the same transaction or occurrence as the injury or death of the migrant or seasonal agricultural worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.''.

SEC. 4. DISCLOSURE OF WORKERS' COMPENSATION COVERAGE.

(a) MIGRANT WORKERS.—Section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding after paragraph (7) the following:

''(8) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of paragraph (8) for a migrant agricultural worker may be met if such worker is given a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed. Such worker shall be given such disclosure at the time of recruitment or if sufficient information is unavailable at that time, at the earliest practicable time but in no event later than the commencement of work.''.

(b) SEASONAL WORKERS.—Section 301(a)(1) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1831(a)(1)) is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ''; and'', and by adding after subparagraph (G) the following:

''(H) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of subparagraph (H) may be met if such worker is given, upon request, a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect upon the expiration of 90 days after the date final regulations are issued by the Secretary of Labor to implement such amendments.

SEC. 5. LIABILITY INSURANCE.

(a) AMENDMENT.—Section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) is amended to read as follows:

''(3) The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law.''.

(b) REGULATIONS.—Within 180 days of the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations establishing insurance levels under section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of 180 days after the date of enactment of this Act or upon the issuance of final regulations under subsection (b), whichever occurs first.

TRIBUTE TO DR. FRANCIS A. HIGGINS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a distinguished educator and a friend for many years, Dr. Francis A. Higgins, retired superintendent of the L'Anse Creuse Public Schools in Macomb County, MI.

This Sunday, October 15, 1995, the people of L'Anse Creuse Public Schools will honor Dr. Higgins by proudly naming their newest facility the Francis A. Higgins Elementary School. Higgins elementary is now accommodating 700 kindergarten through fifth grade students.

I have known Dr. Higgins for many years and he richly deserves the honor that will be bestowed upon him. For 15 years, Frank Higgins' leadership made L'Anse Creuse a model school district that has been emulated throughout the county and State. He championed educational methods and programs that benefited students of all ages while instilling a sense of pride and commitment from all who worked with him.

In 1979, when Frank first assumed his role as superintendent, the school district faced severe financial difficulties and declining enrollment. Today, the L'Anse Creuse Public School District is an excellent school system where many parents choose to buy homes. And, it is in excellent financial shape.

While Dr. Higgins deserves much credit for the district's successes, he is first to acknowledge the role of the staff and a community that supported millages during difficult economic times. However, when one becomes familiar with Dr. Higgins' administrative and educational talents, it is easy to see why he received such support. His success at educating students and inspiring a desire to learn is only surpassed by his success at fostering support for education.

As the L'Anse Creuse Public Schools prepare to honor Dr. Higgins this weekend, I urge my colleagues to join with me and thank him for his many years of devoted service. I know he is proud to be immortalized by the community he so faithfully served for many years.

UPHOLDING THE AMERICAN DREAM IN CLEVELAND

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. HOKE. Mr. Speaker, I want to take a few minutes out of our hectic legislative schedule to congratulate several families in my district that are overcoming the odds and making their dreams come true. I also want to salute the Cleveland Housing Network, which helped make those dreams a reality.

For 13 years the Cleveland Housing Network [CHN] has been helping Clevelanders buy their own homes. The network's lease-purchase program is especially noteworthy since it offers stable, decent, and affordable housing—with the ultimate goal of homeownership—to families currently living in poverty. And it is widely recognized that homeownership stabilizes neighborhoods and unites

communities. I am personally gratified to have assisted in the crafting and passage of the Federal tax law which created the economic foundation of CHN's program.

Those being recognized today are truly impressive—impressive as individuals and impressive as families. They have made a commitment to themselves and their children that whatever winds may blow, their families will be well-grounded.

For decades, the dream of owning one's own home has inspired millions of Americans to work hard, plan and save for the future, and become active and committed citizens. When I think of a home several things come to mind: A place of shelter, a place of love, and a place of sanctuary from the turbulent world outside. Gathering with friends and family over a good meal or a good movie, home is truly where the heart is.

Today, several families in my district are being recognized for their commitment to these ideals. And I know that with this commitment comes certain responsibilities. Requirements to attend numerous homeownership training workshops, to learn how to maintain property, and to become financially self-sufficient have encouraged each of these families to take personal responsibility for their futures. These sacrifices will pay off and one day, in the not so distant future, they will be the proud owners of a piece of the American dream. To these families I say, may God bless you as you strive to make your house a home.

OSEOLA McCARTY OF MISSISSIPPI

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. LAZIO of New York. Mr. Speaker, recently I read story that ran in some of the New York papers about an 87-year-old woman from Hattiesburg, MS named Oseola McCarty. Ms. McCarty quit school in the sixth grade and went to work as a laundress. She never married, and she never had children. She merely worked hard, day in and day out, and lived a simple life.

Over the years, she saved the money she made rather than spending it. She saved until the sum grew to an astounding $150,000. She claimed it was more money than she would ever need so she decided to donate the amount to the University of Southern Mississippi to finance scholarships for African-American students. In the words of John Melloncamp, ''Ain't that America?'' Stories like this inspire us and demonstrate that people like Oseola McCarty are what makes this Nation great. This gift has been matched by local business leaders.

Some have criticized this voluntary gift by a private citizen because it is earmarked for African-American students only and will be used by a public university. Talk about not getting the point. This woman is a modern example of the biblical story about the poor widow putting her two copper coins in the temple treasury, an amount greater in meaning than all the gifts of the wealthy combined. This should be encouraged, not criticized. I refuse to believe that our culture has gotten to the point where an act of generosity such as this will be discouraged because it is not politically correct.

I believe in America. And when I have my doubts, the story of Oseola McCarty, and the knowledge that there are others like her in communities throughout this Nation, make it a little easier to have faith.

THE 84TH ANNIVERSARY OF THE FOUNDING OF THE REPUBLIC OF CHINA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. BURTON of Indiana. Mr. Speaker, October 10 marks the 84th anniversary of the founding of the Republic of China, a day that is marked here in Washington by a number of social events. But there is a more important reason for us to celebrate this date along with our Chinese friends, for it could only be under a democratic system that Taiwan has been able to flourish economically and socially as we have seen over the past decade, becoming one of the worlds leading economic powers.

To help us celebrate all of these momentous accomplishments for our friends on Taiwan, I urge my colleagues here in the Congress to support the Republic of China's bid to gain membership in the United Nations. Although a member of several international organizations, the Republic of China has been refused a seat in the United Nations, which to many of us, is truly absurd, for it denies to all of us around the world the benefits that the Republic of China's membership could bring. I know that Representative Benjamin Lu has worked tirelessly for the last year on this matter, and I know that we all hope to see this important step realized for the Republic of China. I can think of no better way for us to show our support for the democratic ideals found in the Republic of China than to support this United Nations bid.

THE LOGICAL RESULTS OF GERRYMANDERING

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Miss COLLINS of Michigan. Mr. Speaker, I rise to add a very brief overview to the discussion relating to congressional redistricting. First, however, I want to congratulate my fellow Congresswoman, the Honorable CYNTHIA MCKINNEY of Georgia for her recent and valuable contributions on this topic. Partly because of her intense interest in this vital issue, and based on the work of legal scholars who have studied congressional redistricting, I have come to recognize that Congress clearly has the authority to compel fair representation by the States in the House of Representatives and to provide for uniform redistricting standards such as compactness, contiguity and equality of population. Unfortunately, Congress has not acted.

In recent years, there have been bills introduced providing specific standards for congressional redistricting. In the 101st Congress, a bill was introduced providing for the establishment of State redistricting commissions to draft congressional districts that would meet three specified standards:

First, the boundaries of each district could not be drawn for the purpose of minimizing the voting strength of any racial, ethnic or economic group, or for the purpose of favoring any political party;

Second, each district would have to be composed of contiguous territory, including adjoining insular territory, in a compact form; and

Third, the boundaries of each district would have to coincide with the boundaries of local political subdivisions.

In the 102d Congress a proposed Senate measure would have required equality, compactness, contiguity and reasonable adherence to county, municipal, and other political subdivision boundaries, in addition, it would have prohibited political gerrymandering.

Another Senate bill introduced in the 103d Congress would have required that congressional districts be equal, contiguous, compact, reasonably adhering to the boundaries of counties, municipalities and other political subdivisions, and without ethnic, racial or political gerrymandering. Again, and unfortunately, none of these bills were entered into law. Also, of course, the prospects for passing such reasonable legislation in this Congress are not favorable.

Now, to be sure that we all know exactly what we're talking about here, let's be clear about this evil called gerrymandering that some in previous Congresses have sought to prohibit. It is defined as the process of dividing a State into civil or political divisions, but with such a geographical arrangement so as to assure a majority for a given political party or population in districts where the result would be otherwise, if they were divided according to obvious natural lines. As Ms. MCKINNEY, has graphically pointed out, the concept has long been used to devise Congressional districts that are not compact, that do not adhere to the boundaries of other political subdivisions within districts and as a means of preventing certain racial or ethnic minorities from obtaining representation. It inevitably results in a Congress that does not reflect the diversity of our society and, in turn, that results in laws that do not adequately protect the interests of all peoples in our society. This is occurring despite all of the so-called protections built into our national Constitution and our statutes that supposedly are designed to protect the interests of minorities in this country.

I hate to be the one to point it out Mr. Speaker, but the makeup of this Congress does not allow much room or consideration to be given to the protection of minority interests of any kind. This is a winner-take-all political free-for-all. The laws of this Congress are primarily being crafted by a great mass of young white males with limited living experience and their slightly older white male congressional employers who do not really believe in Democracy anyway.

In my humble opinion, this white male dominated majority, partly elected due to the continuing use of gerrymandering all across the country, has misread their electoral mandate. The voters in the last election may have called for a revolution, but they did not send you guys up here to run rough shod over the interests of all groups who may disagree with your view of what that revolution is all about. The voters really were trying to instruct you to come to Congress and work with us to resolve governmental gridlock and solve the Nation's problems. They did not send you here to tilt all

decisions toward the radical right, to arbitrarily deny representation to minorities in our country or to create greater hardships and havoc for significant numbers of our fellow citizens who just do not have the raw power to control the lawmaking process here in Congress.

So, Mr. Speaker, let me end with a bit of friendly advice. Don't misinterpret your mandate. Remember that it was obtained with gerrymandering congressional districts, which means that your power was acquired through the use of wrongful and discriminatory political tactics. Also, remember, Mr. Speaker, as you continue to abuse your ill-gotten power, that at some point the voters could very well become sufficiently outraged and could rise-up and take back that power. And I believe that is exactly what is going to happen to a lot of your arrogant, power-mad legislative co-conspirators. I also believe that you have already missed your chance to run for President because of this very same arrogant use and abuse of political power.

MILLIONS WILL SUFFER AND SOME WILL DIE, NEEDLESSLY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. STARK. Mr. Speaker, I would like to enter in the RECORD an op ed from today's New York Times entitled ''A Giant Leap Backward'' written by Emory University Professor Melvin Konner.

[From the New York Times, Oct. 13, 1995]

A GIANT LEAP BACKWARD

(By Melvin Konner)

Now it's official. The Republican House plans to cut a total of $452 billion out of Medicare and Medicaid over the next seven years. Medicaid would lose $182 billion, even though it covers a disproportionately large number of children as well as elderly people who have spent themselves into destitution to qualify for it. Later this month, the measure is to be voted on as part of the budget reconciliation package, and Speaker Newt Gingrich plans to block a Presidential veto by forcing the country to the verge of default on our national debt. International markets await news of this potential disaster with thousands of pairs of hands poised over keyboards.

Default would be only the latest step in the third worldization of America. The gap between rich children and poor children here is larger than in Switzerland, France or any of the 15 other industrial nations examined in a report this year by the Luxembourg Income Study, a non-profit group. Not only that, we have a health care delivery system that overtreats the well-to-do—not actually a good thing for them—while all but withholding treatment from 43 million uninsured citizens.

Where will the savings from health care cutbacks go? Republicans argue that the money will insure that Medicare and Medicaid remain solvent. But they are also pressing for a huge tax cut for the middle class and well-to-do; presumably that money has to come from somewhere. And of course nothing Republicans do will be allowed to slow profit-taking in the health care industry, whose profits outpace national corporate averages by far. Characteristically, the American Medial Association came out in support of the Republican plan only after payments to doctors were carefully protected.

Few people may realize that our much praised health care system, about to be made worse, is already an international disgrace. The most scientifically advanced medicine in the world has limited practical or moral value when nearly a fifth of the population cannot get to it. During the past few years, while the spirit of health-care reform was being born and then started dying, the throng of the uninsured swelled from 37 million to 43 million. This trend will only worsen. Cutbacks are closing emergency rooms and clinics, and the great public hospitals are being sold off or destroyed in New York, Los Angeles and other cities. Does anyone care where the poor will go?

Republican leaders say they have a mandate to cut costs. But only about 38 percent of eligible voters went to the polls in 1994 and only slightly more than half of those voted Republican. The result is perfectly democratic, but it is not a mandate. Sixty percent of voters currently say they are dissatisfied with Congress. Time will tell whether the voters of 1994 were indulging in conservatism or merely in volatility.

Mr. Gingrich says he wants to renew America, but the only thing he is likely to renew is the frustration and anger of people who can only gape at the good life, and good health care, without hope of having it themselves. Senator Phil Gramm, a Presidential candidate, invokes the Second Coming on the campaign trail. Which Second Coming? The one brought on by Armageddon, or the one that many Christians believe grows gradually in the world through the imitation of Jesus Christ?

Deep in the Judeo-Christian tradition are such sentiments as ''Do justice to the poor and fatherless; deal righteously with the afflicted and destitute.'' A modern politician who transfers wealth from the suffering to the comfortable and cuts off poor people's access to decent medical care might wonder how he would stand in a Second Coming.

America is taking a great step backward. All other industrial countries seem to know something we don't: having no place to take a sick child does not encourage people to identify with their country or its interests.

Americans have always been torn between self-reliance and compassion. Those who think that conservatism is now set in stone should study American history; they are only watching part of the arc of a pendulum swing. Compassion, fairness, cooperation—these are the forces that will stop this swing, whether in one year, five or seven.

In the meanwhile, millions will suffer and some will die, needlessly, for want of decent medical care.

TRIBUTE TO AL VELLUCCI, MAYOR EMERITUS OF THE CITY OF CAMBRIDGE

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute and to congratulate Mayor Emeritus Al Vellucci of the city of Cambridge for a lifetime of outstanding service. On Sunday, October 15, 1995 Mayor Vellucci will be presented with a memorial statue in recognition of his outstanding contributions to the Portuguese-American community of Cambridge.

Over the years, Al has served as school committeeman, city councilor, and as mayor. During his four terms as mayor, Al exemplified the spirit of passion and commitment to the community he served. He has worked very hard to bring together the people of Cambridge and has achieved an impeccable record. The residents of Cambridge are fortunate to have Al, who gives so much of himself because of the love and pride he has for the community. I applaud his extraordinary service and efforts.

This is a most deserved tribute and I wish him all the best on his day of recognition. May he continue to serve the community of Cambridge for many years to come.

PERSONAL EXPLANATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. ROTH. Mr. Speaker, as the representative of Congress to the United Nations, I was in New York attending a meeting with Ambassador Albright yesterday afternoon, and I was forced to miss votes. Had I been in attendance, I would have voted as follows:

''Yea'' on final passage of H.R. 2405, rollcall vote No. 713.

''No'' on the Brown amendment to H.R. 2405, rollcall vote No. 712.

''No'' on the Brown amendment to H.R. 2405, rollcall vote No. 711.

''No'' on the Kennedy amendment to H.R. 2405, rollcall vote No. 710.

''No'' on the Lofgren amendment to H.R. 2405, rollcall vote No. 709.

THE BOOK TOUR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mrs. SCHROEDER. Mr. Speaker, there is some good news. The Speaker says he'll pay for the Government-paid security on his book tour. Today I've written the Sergeant at Arms asking him to send a bill. Let's hope there is prompt payment.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 13, 1995.

WILSON LIVINGOOD,
Sergeant at Arms, The Capitol, Washington, DC.

DEAR MR. LIVINGOOD: Thank you for your September 8 letter. The October 9, 1995, issue of Bill Shipp's Georgia indicates that House Speaker Newt Gingrich has offered to reimburse the taxpayers ''for the cost of his government-paid security'' during his whirlwind book tour. I congratulate the Speaker on his offer, and I request that you prepare and send him a bill.

What with the Republican efforts to cut Medicare and balance the budget, I'm sure the Speaker's offer will be welcome.

Sincerely,

PAT SCHROEDER,
Congresswoman.

HAS NEWT'S BOOK BOMBED?

It now looks as if House Speaker Newt Gingrich should have taken the $4.5 million book advance offered by HarperCollins, the publishing house owned by controversial media mogul Rupert Murdoch. Reports from

the publishing industry are that there'll be no second printing of the speaker's book, ''To Renew America,'' and as many as half of the 625,000 run may be returned.

Gingrich is on the hook for an agent's fee of $675,000, based on the original $4.5 million advance, which Gingrich turned down after bipartisan criticism of the deal. After payments to his ghost-writer, reimbursement to HarperCollins for the costs of his 25-city tour, taxes and reimbursing taxpayers for the cost of his government-paid security, Gingrich may net less from the book deal than his salary as speaker.

On top of all that, Gingrich has said he will give all of the royalties from book signings to his favorite charity, Earning by Learning, which Gingrich's pal Mel Steely set up at West Georgia College. Maybe the speaker should have arranged for ''bulk purchases'' from some wealthy GOPAC supporters, a la former Speaker Jim Wright.

HONORING CELEBRATION OF LEARNING

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Ms. DELAURO. Mr. Speaker, this year, the University of New Haven marks its 75th anniversary with a year-long ''Celebration of Learning.'' It is with great pleasure that I rise today to congratulate the university administration, staff, alumni, and students on reaching this historic milestone.

With 6,000 students currently enrolled and over 28,000 alumni, the University of New Haven has become one of the largest independent institutions of higher education in the region. The university offers an impressive array of services to its students and, under the strong leadership of President Lawrence J. DeNardis, has forged strong ties with the surrounding community. Indeed, the university administration has worked hard to cultivate a long-lasting and mutually beneficial relationship with the city of New Haven. Students from all walks of life are able to take advantage of the school's diverse and exciting programs.

The University of New Haven has more than fulfilled the vision and expectations of its founders who conducted the first classes at Yale University in the 1920's. Since then, the university has become known nationally for its exceptional programs in a number of different disciplines. I am confident that UNH will continue to expand its services while maintaining its hard-earned reputation for academic excellence and innovative programs.

On Saturday, October 14, 1995, more than 600 alumni and friends of the University of New Haven will attend the 75th anniversary gala. I thank the university administration for including me in this historic celebration, and wish them continued success in preparing students for the 21st century.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S15143–S15180

Measures Introduced: Five bills were introduced, as follows: S. 1319–1323. **Page S15166**

Measures Passed:

Congressional Award Act Amendments: Senate passed S. 1267, to amend the Congressional Award Act to revise and extend authorities for the Congressional award Board. **Page S15170**

Week Without Violence: Committee on the Judiciary was discharged from further consideration of S. Res. 180, proclaiming October 15, 1995, through October 21, 1995, as the "Week Without Violence", and the resolution was then agreed to. **Page S15170**

Telecommunications Competition and Deregulation Act: Senate disagreed with the amendments of the House to S. 652, to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, agreed to the request of the House for a conference thereon, and the Chair appointed the following conferees: Senators Pressler, Stevens, McCain, Burns, Gorton, Lott, Hollings, Inouye, Ford, Exon, and Rockefeller. **Pages S15144–52**

Cuban Liberty and Democratic Solidarity Act—Cloture Motion Filed: A third motion was entered to close further debate on the pending Dole Amendment No. 2898, in the nature of a substitute to H.R. 927, Cuban Liberty and Democratic Solidarity Act and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion could occur on Wednesday, October 18, 1995. **Page S15165**

Ryan White CARE Reauthorization Act—Conferees: Senate disagreed to the amendments of the House to S. 641, to reauthorize the Ryan White CARE Act of 1990, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees: Senators Kassebaum, Jeffords, Frist, Kennedy, and Dodd. **Pages S15170–76**

Commerce, Justice, State Appropriations, 1996—Conferees: The Chair, pursuant to the order of Friday, September 29, 1995, appointed conferees on H.R. 2076, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 3, 1996, as follows: Senators Gregg, Hatfield, Stevens, Domenici, McConnell, Jeffords, Cochran, Hollings, Byrd, Inouye, Bumpers, Lautenberg, and Kerrey. **Page S15176**

Nominations Received: Senate received the following nominations:

David P. Rawson, of Michigan, to be Ambassador to the Republic of Mali.

Gerald Wesley Scott, of Oklahoma, to be Ambassador to the Republic of The Gambia.

Ralph R. Johnson, of Virginia, to be Ambassador to the Slovak Republic.

Robert E. Gribbin III, of Alabama, to be Ambassador to the Republic of Rwanda.

A routine list in the National Oceanic and Atmospheric Administration. **Page S15180**

Communications: **Pages S15165–66**

Statements on Introduced Bills: **Page S15166**

Additional Cosponsors: **Page S15166**

Amendments Submitted: **Pages S15166–67**

Authority for Committees: **Page S15167**

Additional Statements: **Pages S15167–70**

Recess: Senate convened at 9:45 a.m., and recessed at 3:52 p.m., until 9:45 a.m., on Tuesday, October 17, 1995. (For Senate's program, see the remarks of the Majority Leader in today's RECORD on pages S15179–80.)

Committee Meetings

(Committees not listed did not meet)

RUBY RIDGE

Committee on the Judiciary: Subcommittee on Terrorism, Technology, and Government Information resumed hearings to examine certain Federal law enforcement actions with regard to the 1992 incident at Ruby Ridge, Idaho, receiving testimony from Peter King, Gregory Sexton, Danny Harrell, and Donald Kusulas, each a Special Agent (Denver, Colorado), James J. Cadigan, Supervisory Special Agent, Firearms and Toolmarks Unit, Laboratory Division, Greg Rampton, Supervising Special Agent (Ogden, Utah), Joseph Venkus, Special Agent (Retired), Michael Dillon, Supervisory Senior Resident Agent (Boise, Idaho), and Brian Callihan, Chief Division Counsel (Sacramento, California), all of the Federal Bureau of Investigation, and James Reynolds, Chief, Terrorism and Violent Crime Section, Criminal Division, all of the Department of Justice.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 3 public bills, H.R. 2480–2482; and 1 resolution, H. Con. Res. 107 were introduced.

Pages H10076–77

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative LaHood to act as Speaker pro tempore for today.

Page H10049

Senate Messages: Messages received from the Senate today appear on page H10049.

Quorum Calls—Votes: No quorum calls or votes developed during the proceedings of the House today.

Adjournment: Met at 10 a.m. and adjourned at 2:10 p.m.

Committee Meetings

UNITED STATES HOUSING ACT

Committee on Banking and Financial Services: Subcommittee on Housing and Community Opportunity concluded hearings on H.R. 2406, United States Housing Act of 1995. Testimony was heard from the following officials of the Department of Housing and Urban Development: Henry G. Cisneros, Secretary; and Susan Gaffney, Inspector General; Judy England-Joseph, Director, Housing and Community Development Issues, GAO; Lawrence Simons, former Assistant Secretary, Housing and Commissioner, FHA, Department of Housing and Urban Development; and public witnesses.

BUDGET RECONCILIATION RECOMMENDATIONS; SEVEN-YEAR BALANCED BUDGET ENFORCEMENT ACT

Committee on the Budget: On October 12, the Committee ordered reported the following: the Omnibus Reconciliation Act of 1995; and H.R. 2459, amended, Seven-Year Balanced Budget Enforcement Act of 1995.

REGULATION OF PUBLIC UTILITY HOLDING COMPANIES—SEC REPORT

Committee on Commerce: Subcommittee on Telecommunications and Finance and the Subcommittee on Energy and Power concluded joint hearings on the SEC's June 19, 1995 report entitled "The Regulation of Public Utility Holding Companies." Testimony was heard from Elizabeth Moler, Chair, Federal Energy Regulatory Commission, Department of Energy; Barry Barbash, Director, Division of Investment Management, SEC; and public witnesses.

CIVIL SERVICE REPORT

Committee on Government Reform and Oversight: Subcommittee on Civil Service continued hearings on Civil Service Reform I: NPR and the Case for Reform. Testimony was heard from George S. Dunlop, former Assistant Secretary, USDA; Charles E. Weithoner, former Associate Commissioner, FAA, Department of Transportation; and public witnesses.

Hearings continue October 26.

ENDANGERED SPECIES CONSERVATION AND MANAGEMENT ACT

Committee on Resources: On October 12, the Committee ordered reported amended H.R. 2275, Endangered Species Conservation and Management Act of 1995.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *p. D1185)*

H.R. 2288, to amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support. Signed October 12, 1995. (P.L. 104–35)

S. 895, to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration. Signed October 12, 1995. (P.L. 104–36)

CONGRESSIONAL PROGRAM AHEAD

Week of October 16 through 21, 1995

Senate Chamber

On *Monday,* Senate will not be in session.

On *Tuesday,* Senate will resume consideration of H.R. 927, Cuban Liberty and Democratic Solidarity Act, with a cloture vote to occur on the Dole substitute amendment.

During the balance of the week, Senate may consider S. 908, State Department Authorizations/Reorganization, H.R. 2127, Labor, HHS, Education Appropriations, 1996, S. 1048, NASA Authorization Act, S. 1318, Amtrak Authorizations, conference reports (when available), and any cleared legislative and executive business.

(Senate will recess on Tuesday, October 17, 1995, from 12:30 p.m. until 2:15 p.m. for respective party conferences.)

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry: October 19, to hold hearings on the nominations of Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture for Marketing and Regulatory Programs, and to be a Member of the Board of Directors of the Commodity Credit Corporation, and John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture for Congressional Relations; to be followed by a meeting to consider pending committee business, 9 a.m., SR–332.

Committee on Armed Services: October 17, to hold hearings to examine U.S. policy on Bosnia and the use of U.S. military forces to implement a peace agreement, 10 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: October 17, Housing Opportunity and Community Development, to hold hearings on low income housing preservation reform proposals, 9:30 a.m., SD–538.

Committee on Commerce, Science, and Transportation: October 18, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold oversight hearings on the implementation of the Amateur Sports Act of 1978 (P.L. 95–606), 9:30 a.m., SR–253.

October 18, Full Committee, to hold hearings on S. 1043, to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricane, earthquakes, and volcanic eruptions, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: October 18, business meeting, to consider pending calendar business, 10 a.m., SD–366.

October 19, Subcommittee on Oversight and Investigations, to hold hearings to examine the role of the Council on Environmental Quality in the decision-making and management processes of agencies under the Committee's jurisdiction (Department of the Interior, Department of Energy, and U.S. Forest Service), 9:30 a.m., SD–366.

Committee on Environment and Public Works: October 19, to hold hearings on proposed legislation to assure the safety of public water systems, 9 a.m., SD–409.

Committee on Foreign Relations: October 17, to hold hearings on the peace process in the former Yugoslavia, 2 p.m., SD–419.

October 19, Full Committee, business meeting, to consider pending calendar business, 2 p.m., SD–419.

Committee on the Judiciary: October 17, Subcommittee on Administrative Oversight and the Courts, to hold hearings on conserving judicial resources, focusing on the caseload of the District of Columbia Circuit and the appropriate allocation of judgeships, 9:30 a.m., SD–226.

October 18, Full Committee, to hold hearings to examine property rights issues, 10 a.m., SD–226.

October 19, Full Committee, business meeting, to consider pending calendar business, 10 a.m., SD–226.

October 20, Full Committee, to resume hearings to examine the status of religious liberty in the United States, 10 a.m., SD–226.

Committee on Labor and Human Resources: October 18, to hold hearings to examine the impact of emerging infections on the nation's health, 9:30 a.m., SD–430.

Committee on Small Business: October 19, to hold hearings on proposals to revitalize America's rural and urban communities, 9:30 a.m., SR–428A.

House Chamber

Monday, House is not in session.

Tuesday, Consideration of the following ten Suspensions:

1. H.R. 1715, To Reverse the Supreme Court Decision in Adams Versus Barrett;
2. H.R. 1606, Harry Kizirian Post Office Designation Act;
3. H.R. 1026, Winfield Scott Stratton Post Office Designation Act;
4. H.R. 587, Biotechnical Process Patents Act;
5. H.R. 1506, Digital Performance Rights in Sound Recordings Act;
6. H.R. 2070, Providing for the United States Distribution of the "Fragile Ring of Life" Film;

7. H.R. 629, Fall River Visitor Center Act;

8. S. 268, Collection of Fees for Triploid Grass Carp Certification Inspection;

9. H.R. 1743, Water Resources Research Act Amendments of 1995; and

10. H.R. 2353, Extending Certain Veterans Affairs Health and Medical Care Expiring Authorities.

Wednesday and Thursday, Complete consideration of H.R. 39, Fishery Conservation and Management Amendments of 1995;

H.R. 2259, Disapproving Certain Sentencing Guidelines (subject to a rule being granted); and

H.R. 2425, Medicare Preservation Act of 1995 (subject to a rule being granted).

Friday, No legislative business is scheduled.

NOTE.—Conference reports may be brought up at any time. Any further program will be announced later.

House Committees

Committee on Agriculture, October 19, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, to markup reauthorization of the Food for Peace Program (P.L. 480), 2 p.m., 1300 Longworth.

Committee on Banking and Financial Services, October 16, hearing on the Japanese Financial System, 10 a.m., 2128 Rayburn.

October 17, Subcommittee on Financial Institutions and Consumer Credit, hearing on the recent trend in bank consolidation and interstate mega-mergers as it relates to the implementation of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, 1 p.m., 2128 Rayburn.

Committee on Commerce, October 18 and 19, Subcommittee on Commerce, Trade, and Hazardous Materials, hearings on the Reform of Superfund Act of 1995, 10 a.m., 2123 Rayburn.

October 18, Subcommittee on Energy and Power, hearing on Hydroelectric License Extensions (H.R. 657, H.R. 680, H.R. 1011, H.R. 1014, H.R. 1051, H.R. 1290, H.R. 1335, H.R. 1366 and H.R. 1835), 10 a.m., 2322 Rayburn.

Committee on Economic and Educational Opportunities, October 17, Subcommittee on Oversight and Investigations, hearing on AmeriCorps, 9:30 a.m., 2175 Rayburn.

October 18, Subcommittee on Early Childhood, Youth and Families, hearing on English as the Common Language, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, October 17, Subcommittee on Human Resources and Intergovernmental Relations, oversight hearing on OSHA: New Mission for a New Workplace, 2 p.m., 2247 Rayburn.

October 18, Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, hearing on Taxpayer-funded Political Advocacy, 2 p.m., 2154 Rayburn.

October 19, Subcommittee on Postal Service, hearing on H.R. 1963, Postmark Prompt Payment Act of 1995, 10 a.m., 2247 Rayburn.

Committee on International Relations, October 18, hearing on U.S. Policy Towards Bosnia, 3:30 p.m., 2141 Rayburn.

Committee on the Judiciary, October 17, to markup the following bills: H.R. 632, to enhance fairness in compensating owners of patents used by the United States; H.R. 1295, Federal Trademark Dilution Act of 1995; and H.R. 2294, to amend the Federal Judgeship Act of 1990 to allow affected judicial districts to receive the full benefit of temporary judgeship positions as provided in that act; and to continue markup of H.R. 2202, Immigration in the National Interest Act of 1995, 11 a.m., 2141 Rayburn.

October 18, to continue markup of H.R. 2202, Immigration in the National Interest Act of 1995, 9:30 a.m., 2141 Rayburn.

October 19, Subcommittee on Commercial and Administrative Law, hearing and markup of the following: H.R. 2064, to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia; and H.J. Res. 78, 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; and to markup H.R. 394; to amend title 4 of the United States Code to limit State taxation of certain pension income, 10 a.m., 2141 Rayburn.

October 19, Subcommittee on the Constitution, oversight hearing on the United States Commission on Civil Rights, 10 a.m., B352 Rayburn.

October 19, Subcommittee on Courts and Intellectual Property, hearing on the following bills: H.R. 1127, Medical Procedures Innovation and Affordability Act; and H.R. 2419, Inventor Protection Act of 1995, 10 a.m., 2237 Rayburn.

Committee on National Security, October 17 and 18, hearings on deployment of U.S. ground forces to Bosnia, 2 p.m., on October 17 and 9:30 a.m., on October 18, 2118 Rayburn.

Committee on Resources, October 17, Subcommittee on National Parks, Forests and Lands, to mark up the following bills: H.R. 1838, to provide for an exchange of lands with the Water Conservancy District of Washington County, UT; H.R. 1581, to require the Secretary of Agriculture to convey certain lands under the jurisdiction of the Department of Agriculture to the city of Sumper, OR; H.R. 207, to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange; H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY; H.R. 1585, the Modoc National Forest Boundary Adjustment Act; H.R. 1784, to validate certain conveyances made by the Southern Pacific Transportation Company within the cities of Reno, NV, and Tulare, CA; H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas; H.R. 924, to prohibit the Secretary of Agriculture from transferring

any National Forest System lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill; H.R. 2402, to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area; and H.R. 2437, to provide for the exchange of certain lands in Gilpin County, Colorado, 10 a.m., 1324 Longworth.

October 17, Subcommittee on Native American and Insular Affairs, hearing to review Puerto Rico Status Plebiscite, 1 p.m., 1334 Longworth.

October 18, Subcommittee on Fisheries, Wildlife and Oceans, to markup the following bills: H.R. 33, Stuttgart National Aquaculture Research Center Act of 1995; and H.R. 1965, to reauthorize the Coastal Zone Management Act of 1972; followed by an oversight hearing on Disaster Relief Assistance for Fishermen, 9:30 a.m., 1334 Longworth.

October 19, full Committee, to consider pending business, 11 a.m., 1324 Longworth.

Committee on Rules, October 17, to consider H.R. 2259, to disapprove certain sentencing guideline amendments, 4:30 p.m., H–313 Capitol.

October 18, to consider H.R. 2425, Medicare Preservation Act of 1995, 10 a.m., H–313 Capitol.

October 19, to consider the Omnibus Reconciliation Act of 1995, 10 a.m., H–313 Capitol.

Committee on Science, October 17, Subcommittee on Energy and Environment, hearing on Next Generation Weather Radar (NEXRAD): Are We Covered?, 1 p.m., 2318 Rayburn.

October 18, Subcommittee on Technology, to mark up H.R. 2196, Technology Transfer Improvements Act of 1995; to be followed by a hearing on the Malcolm Baldrige National Quality Awards Program: An Oversight Review From Its Inception, 10 a.m., 2318 Rayburn.

October 19, full Committee, hearing on United States-Japanese Cooperation in Human Spaceflight, 10 a.m., 2318 Rayburn.

Committee on Small Business, October 19, hearing on Effects of Superfund Liability on Small Business, 10 a.m., 2359 Rayburn.

Committee on Standards of Official Conduct, October 17, executive, to consider pending business, 9:30 a.m., HT–2M Capitol.

Committee on Transportation and Infrastructure, October 18, Subcommittee on Water Resources and Environment, hearing on H.R. 1856, Natural Disaster Protection Partnership Act of 1995, 10 a.m., 2167 Rayburn.

October 19, Subcommittee on Aviation, hearing on Regulation of Public Aircraft by the FAA under Public Law 103–411 and on proposed Restrictions on the use of Certain Special Purpose Aircraft under H.R. 1320, to impose restrictions on the use of certain special purpose aircraft, 9:30 a.m., 2167 Rayburn.

October 19, Subcommittee on Public Buildings and Economic Development, hearing on the proposed sale of the House Building Annex located at 501 1st Street, S.E., 8:45 a.m., 2253 Rayburn.

Committee on Veterans' Affairs, October 18, Subcommittee on Hospitals and Health Care, hearing on VA/DOD sharing, 9:30 a.m., 334 Cannon.

Permanent Select Committee on Intelligence, October 18, to continue hearings on the Future of Technology—IC21, 10 a.m., 2212 Rayburn.

Joint Meetings

Conferees: October 17, On H.R. 2002, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, 2 p.m., H–140, Capitol.

Conferees: October 17, Closed, on H.R. 1655, to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, 3 p.m., S–407, Capitol.

Next Meeting of the **SENATE**

9:45 a.m., Tuesday, October 17

Senate Chamber

Program for Tuesday: After the recognition of six Senators for speeches and the transaction of any morning business (not to extend beyond 12:30 p.m.), Senate will recess until 2:15 p.m. for their respective party conferences; following which, Senate will resume consideration of H.R. 927, Cuban Liberty and Democratic Solidarity Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

12:30 p.m., Tuesday, October 17

House Chamber

Program for Tuesday: Consideration of the following ten Suspensions:

1. H.R. 1715, To Reverse the Supreme Court Decision in Adams Versus Barrett;
2. H.R. 1606, Harry Kizirian Post Office Designation Act;
3. H.R. 1026, Winfield Scott Stratton Post Office Designation Act;
4. H.R. 587, Biotechnical Process Patents Act;
5. H.R. 1506, Digital Performance Rights in Sound Recordings Act;
6. H.R. 2070, Providing for the United States Distribution of the ''Fragile Ring of Life'' Film;
7. H.R. 629, Fall River Visitor Center Act;
8. S. 268, Collection of Fees for Triploid Grass Carp Certification Inspection;
9. H.R. 1743, Water Resources Research Act Amendments of 1995; and
10. H.R. 2353, Extending Certain Veterans Affairs Health and Medical Care Expiring Authorities.

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