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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. THUNE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
September 30, 1997.

I hereby designate the Honorable JOHN R. THUNE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 25 minutes, and each Member except the majority and minority leaders and the minority whip limited to 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentlewoman from California [Ms. SANCHEZ] for 2 minutes.

THE DRUG COURT PROGRAM GIVES THOSE CHARGED WITH SUBSTANCE ABUSE CRIMES A FIGHTING CHANCE

Ms. SANCHEZ. Mr. Speaker, I rise today to tell my colleagues about a justice program that is working. The drug court is a program in use across our country to help give those charged with substance abuse crimes a fighting chance to make the difficult transition from a life of drug abuse to that of productive members of our society.

I worked hard to obtain Justice Department funding to keep this program going in Orange County, and I am glad that I was successful. The Orange County drug court is one of 160 drug courts throughout the Nation that are making a difference in helping to keep our courts from getting engulfed in a sea of cases.

Very simply put, this program allows some of those individuals who are charged with drug offenses the option of completing the drug court program which consists of individual specific community service and rehabilitation.

I recently went to the graduation of some of these people in the drug court program, and we affect not only individual's lives but entire families. Of the 14 who graduated that day, there were probably about 50 family members who had tears in their eyes that day to see the change that had overcome those people that they loved. Those who choose the option are placed in a highly structured program, and they are subject to intense supervision. Their successes are praised, and their failures are dealt with quickly and appropriately.

This program works. It makes our justice system more efficient, but, more important, it rebuilds peoples' lives. If any of my colleagues want to learn about this unique, effective drug court program, I would be happy to work with them to promote drug courts in their own areas.

PRESIDENT OPPOSES CITIZEN OVERSIGHT OF IRS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. ROGAN] is recognized during morning hour debates for 5 minutes.

Mr. ROGAN. Mr. Speaker, as a new Member of Congress, I had the chance to go home during the break and talk to constituents throughout my district. One of the things that I was pleased to report back home was the fact that Congress, acting in a bipartisan fashion, was able to deliver the first balanced budget in almost 30 years, and the first broad-based tax cut in almost 16 years. That is good news. It was good news to deliver, and judging from the response of my constituents back home in California, it was good news to receive.

But the fight is far from over, because if we are going to be able to deliver meaningful tax reform to the people of this country, tax reform that does not last just for one Congress but will last through the years, we are going to have to look at restructuring, and perhaps abolishing, the tax collection agency known as the Internal Revenue Service.

There is an exciting debate that is about to occur in Congress, and I hope that it will be on the radar screen of every taxpayer and every citizen. We in Congress are going to debate whether we should move to a flat tax as proposed by our Republican Majority Leader DICK ARMEY, or move to a consumption tax, essentially a national sales tax, as proposed by the Ways and Means chairman, the gentleman from Texas, Mr. BILL ARCHER, and the gentleman from Louisiana, Mr. BILLY TAUZIN, and others. That that will be an important debate, because it will significantly change the process of tax collecting in America. Either one of those alternatives will be preferential to the status quo.

Unfortunately, the IRS over the years has become an agency that has gone beyond its limited role of being a collection agency to fund constitutional government, and instead has been used time and time again as an agency to reward political friends and oppose political enemies.

During the last week here in Congress, we have held hearings on the IRS, and have heard horror stories

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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about how taxpayers have been treated. These facts came not just from citizens who were injured by the IRS, but from IRS agents themselves who testified as to the practices of the IRS. The evidence shocked and stunned Americans. As a result of those hearings, one of the things we Republicans in Congress have proposed is a ''citizens' oversight board'' to protect Americans from agency abuses.

It ought to come as a shock to all taxpayers that we even have to consider appointing a board such as that to protect citizens from the abuses of an agency that was created to serve them, and not the other way around. Unbelievably, this morning I picked up the Washington Times and saw on the front page a headline that says, ''White House Champions IRS, President Opposes Citizen Oversight.'' The lead column said, ''The White House yesterday came to the defense of an embattled IRS vowing to 'vigorously oppose' congressional efforts to create a citizen oversight board to protect Americans from agency abuses.''

Mr. Speaker, we Republicans have tried to work with the White House and with Democrat colleagues to forge a bipartisan solution to a lot of the problems that are facing our country. If ever there was a time for bipartisanship, Mr. Speaker, it is now when it comes to dealing with the IRS.

I do not know where the President will eventually come down on the issues of a national sales tax or a flat tax or if he supports the status quo, but surely this President, surely this administration, which has shown as a hallmark over the last 5 years the ability to read the tea leaves of public opinion, ought to understand that this is not a partisan issue. This is an issue about good and decent Government.

The IRS for too many years has abused its power, has abused taxpayers, that have paid for this agency, and the time has come to make this agency responsive and accountable to those who pay its way. I urge the President to reconsider this unfortunate policy that was announced today, and to join with Republicans to create citizen oversight of the IRS. The best way to clean up the IRS is to have citizen accountability as Republicans have proposed in Congress.

PUT THE GULF WAR VETERANS FIRST BECAUSE THEY PUT OUR COUNTRY FIRST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas [Mr. DOGGETT] is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Mr. Speaker, America should never forget the contribution of the men and women of our Armed Forces in the gulf war. Unfortunately many of the families of our veterans of that gulf war can never forget it because the lingering consequences of illness and disability continue to afflict many of those who participated in our Nation's defense in that gulf war.

Indeed, those classified as having so-called gulf war syndrome, who were exposed to toxins, exposed to poison substances, and who continue to experience a wide variety of very serious symptoms as a result of their service for our country in the gulf war.

In all, some 3,000 Desert Storm veterans have filed claims concerning their illnesses against frozen assets of the Iraqi Government. It was following the invasion of Kuwait by Iraq in 1990, that the United States froze $1.3 billion of Iraqi assets in this country. Those veterans should get the priority with reference to any claims that they might have against those assets.

I have up for the consideration of this House later today a motion regarding these matters. Before reviewing the text of that motion, let me cover very briefly the history of this matter.

In 1991, the U.N. Security Council declared in a resolution that ''Iraq * * * is liable under international law for any direct loss, damage, or injury to foreign governments, nationals, and corporations as a result of Iraq's unlawful invasion and occupation of Kuwait.'' I think the type of claim that our gulf war veterans have is the very type of claim contemplated by that international resolution.

Accordingly, in 1994, when the Democrats were in charge of this House, legislation was passed through this House by an overwhelming majority, under the leadership then of the chair of the House Foreign Affairs Committee, the honorable gentleman from Indiana, Mr. LEE HAMILTON, that established an Iraq Claims Fund. I would quote from that bill in saying ''before deciding any other claim against the Government of Iraq, the United States Commission shall, to the extent practical, decide all pending noncommercial claims of members of the United States armed forces.'' This body went on record in giving a priority to those who put their life and limb at risk for the future of our Nation.

Unfortunately, quite a different turn has occurred in this Congress in this session. Legislation has been approved and is pending in conference committee at present that would place these same gulf war veterans in a position where they would never be allowed to recover one red cent against the Government of Iraq.

And why is that? Because the separate commercial claims that existed before this war ever occurred of the seven largest tobacco companies and of other commercial enterprises have been elevated over our veterans. Our veterans have been left in last place with no real right to make a recovery against these frozen Iraqi assets.

This all took place at the behest of Senator JESSE HELMS of North Carolina, who inserted it into the State Department authorization that is pending in conference committee. Fortunately, this House has not yet acceded to his demands. I would say that while he may be able to block an Ambassador to Mexico, he ought not to be able to block the claims of these 3,000 people who served with valor our country.

My motion would instruct our conferees, here in the House, to the State Department bill to not accede to the demands of those who would place the tobacco companies and the other commercial claims ahead of our veterans, who deserve to be heard first and foremost for what they have done for this country.

I would draw the attention of the House to communications from the National Gulf War Resource Center which concludes in a letter to this House by saying, ''Senator HELMS' legislation, if passed, would amount to a grotesque injustice against gulf war veterans poisoned by chemical warfare agents and other toxins during the gulf war. We ask you to consider the interests of gulf war veterans when voting on this legislation.''

That is what I will be asking my colleagues to do later today as we take up and consider this motion: Put the gulf war veterans first because they put our country first.

☐ 0915

INS: SERVICE VERSUS ENFORCEMENT

The SPEAKER pro tempore (Mr. THUNE). Under the Speaker's announced policy of January 21, 1997 the gentleman from Texas [Mr. REYES] is recognized during morning hour debates for 5 minutes.

Mr. REYES. Mr. Speaker, I rise this morning to speak on an issue that is very important to me. For more than 26 years, I was an employee of the Immigration and Naturalization Service. I am proud to say that I worked for the INS and that I helped to enforce our Nation's immigration laws as a Border Patrol agent and subsequently as a Border Patrol chief.

I am proud to have worked alongside some of the most dedicated and professional men and women this country has to offer. It is for these men and women that I will introduce the Border Security and Enforcement Act of 1997, a bill which will separate the Border Patrol and other enforcement components from the INS and create a new enforcement agency.

The INS has real problems that demand real answers. I believe I can provide those answers in a manner that is beneficial to the INS and the American people who demand more from their Government.

The inherent problem with the INS is that they are attempting to serve two masters. For all of its good intentions and willing personnel, the INS is doomed to fail. The problem is that they are tasked with conflicting missions: service versus enforcement.

Despite funding increases of more than 52 percent over the past 2 years, the INS has not adequately handled naturalization or enforcement. There are approximately 1.4 million people waiting for the INS to process their naturalization applications, and this backlog, unfortunately, is expected to increase. This situation is unacceptable. It is the duty of our Nation to provide timely service to those seeking admission under the legal immigration system.

Our efforts to control the border are also falling short of expectations by the American people. By recent INS estimates, there are more than 5 million illegal immigrants living in the United States. It is the duty of our Nation to effectively control illegal immigration and drug trafficking in order to provide safety and security to the American people.

Increasingly the physical presence of Border Patrol agents on the Southwest border to deter illegal crossings has been an integral part of our border control strategy, but there is much more to be done. In addition to placing agents in the field, we must ensure that they are properly equipped to control our borders. It should not be acceptable to have drug smugglers and alien smugglers taking shots at our agents on the border. It should not be acceptable to ask our agents to make do with what resources are available rather than with the resources that they need to do their jobs. We owe it to these officers to provide them the tools that they need to protect our borders and keep our communities safe.

Last year alone, there were more than 1.5 million apprehensions of illegal aliens attempting to enter the United States along the Southwest border. As if this is not enough, Border Patrol agents are playing a major and integral part in our Nation's drug control strategy. Drug traffickers attempting to supply the drugs to feed America's $50 billion a year drug habit have become increasingly dangerous and sophisticated.

The men and women of the U.S. Border Patrol are outmanned and outgunned. The INS, with its mission overload, is forced to fund programs depending on the priority of the moment despite an unprecedented increase in resources. These priorities vary from border control, interior enforcement, or naturalization. It is time to correct this.

We cannot expect our Border Patrol agents to effectively combat illegal immigration and drug trafficking without providing them the means to do so. This newly created agency will be enforcement-oriented and will dedicate the necessary resources to control our borders and protect the lives of our Border Patrol agents.

This legislation will also allow the INS to focus its attention and resources on naturalization and adjudication by relieving them of their enforcement duties. The deficiencies inherent in our immigration system will finally be addressed. We must place a priority on controlling our borders and properly serving those seeking admission to our Nation legally. It is time to protect those who serve us every day on the border and throughout our Nation.

OVERHAUL THE IRS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to discuss the imperative need for tax reform. It is not simply that Americans pay too much taxes, it is that the entire U.S. tax system is too complex, too bureaucratic, and too unfair.

When the income tax was first enacted 84 years ago, there was one page of instructions coupled with a one-page form. Today, there are 480 IRS tax forms and 17,000 pages of IRS laws and regulations. Even the instructions alone for the 1040 EZ form are 28 pages long, and 293,760 trees must be cut down each year just to supply the 8 billion pages of paper needed for filing the country's income taxes.

The complexity of the system requires 136,000 employees at the IRS and elsewhere in the Government to administer the laws, costing the American taxpayers $13.7 billion to enforce and oversee the Code. So while tax reduction is a very important, much-needed step forward, we must not forget that it is a first step in many that must be taken. We should continue to work to reduce the tax burden, but we also must simplify the Tax Code.

To address the latter, Congress has an obligation to pursue tax fairness, yes, and simplification for all Americans, whether that be a flat tax, a national sales tax, a graduated tax, or even a value-added tax. Each has its merits, and certainly all are better than the current flawed system. It is essential that any overhaul ostensibly based on fairness must be just that: fair to everyone. Otherwise, we have not bettered the system, we have only exacerbated the already existing problem.

Furthermore, and most importantly, the IRS itself is in dire need of reform. It is the exemplification of all that is wrong with our overly complex and burdensome Tax Code.

In a recent survey, American taxpayers rated the IRS last in customer satisfaction among 200 private companies, local government agencies, even the U.S. Postal Service. Furthermore, the GAO reports that the IRS has been unable to accurately balance its own books for the last 4 years, reporting that in 1992 the IRS could not even account for 64 percent of its own budget. After spending $4 billion, the IRS acknowledged that its Tax Systems Modernization Computer Program still has not produced a working system. As a result, the IRS clerks continue to type away at a computer set up 30 years ago with an error rate of 22 percent.

It should be obvious to everyone that the entire U.S. tax system is in desperate need of reform. Taxes are too high. The Tax Code is too complex and burdensome, and the IRS itself is a bureaucratic mess.

Congress has an obligation to act, an obligation to reform the burdensome and monstrous Tax Code. We should seize this opportunity now. We should work to affect positive changes in our Nation's revenue collection agency, work toward simplifying our overly complex Tax Code, and work to bring some sanity to the incomprehensible Tax Code.

The unfair and oppressive tax system of today is not unlike the system that gave rise to the American Revolution in 1776. We have, as I mentioned, an overly complicated system exemplified by an immense and impersonal Government bureaucracy.

Mr. Speaker, America deserves better. Americans deserve fairness. They deserve further tax relief; they deserve tax simplification, and they deserve a new, less intrusive and less burdensome IRS. We cannot just fix the system today, we must replace it.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 24 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

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

Of all the gifts that we treasure in our hearts, O God, we are especially grateful for the gift of truth and we pray that we will cherish that gift with the unique respect and honor that is most fitting and appropriate. May we so use our thoughts and words in ways that truly reflect the right exchange of ideas between people and may every person, on every side of discourse or argument, use the wisdom and noble judgment that befits Your good creation. And may the words we say with our lips, be believed in our hearts, and all that we practice in our hearts, may we see lived out in our daily lives. In Your name we pray. Amen.

THE JOURNAL

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

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

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

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

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

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

The SPEAKER. Pursuant to the provisions of clause 5, rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] come forward and lead the House in the Pledge of Allegiance.

Mr. ROMERO-BARCELÓ 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 had passed a bill of the following title, in which the concurrence of the House is requested:

S. 459. An act to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minutes on each side.

YUCCA MOUNTAIN NUCLEAR WASTE REPOSITORY WILL MEAN LARGE GOVERNMENT PAYOFFS FOR DEVALUED PROPERTIES

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

Mr. GIBBONS. Madam Speaker, what will a temporary nuclear waste repository at Yucca Mountain, NV, mean to private property owners in some districts? It will mean large Government payoffs because the transportation of this radioactive waste will devalue their property. The New Mexico Supreme Court ruled that Mr. John Komis of Santa Fe be awarded more than $884,000 resulting from devaluation damage to his land due to the transportation of radioactive waste past his property.

If H.R. 1270 passes, almost 80,000 tons of nuclear waste will be transported across this country, devaluing property along the way. And who will pay for this devaluation in private property? Of course, the American taxpayer. They will foot the bill to support a radical and extremely costly policy mandated upon them by Congress.

It is time Members pay attention to this debate and represent the constituency that elected them to protect their property and their rights. Madam Speaker, this is a bill that America cannot afford.

SUPPORT FOR LORETTA SANCHEZ

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

Mr. ROMERO-BARCELÓ. Madam Speaker, I rise today to support our colleague, the gentlewoman from California, Ms. LORETTA SANCHEZ.

The Committee on House Oversight, in conducting its election probe, will not destroy her ability to represent the people of her district. This investigation has dragged out but will not drag down the gentlewoman from California.

Those of us who know the gentlewoman, know what the people of the 46th District knew when they voted her into Congress. She is going to stand up in Congress to the challenge. She is going to continue to stand up in Congress for the people of her district and the issues that matter most to them: education, crime prevention, and better jobs.

California's Secretary of State certified the gentlewoman was duly elected by the people of the 46th District. Yet the investigation continues.

The Committee on House Oversight is obviously stalling. The legal bills for the gentlewoman from California have exceeded $400,000, and this probe continues to cost her $10,000 a week. Is the committee protracting its investigation to keep her from raising funds for her reelection?

One way or another they want to bring her down, but we stand behind her, Madam Speaker, and we will not relent until this probe comes to an end. It is time to conclude this investigation, to terminate this extended fishing expedition, and for the attention of this Congress to be placed squarely on the people's business.

COMPULSORY CAMPAIGN CONTRIBUTIONS ARE WRONG

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

Mr. TIAHRT. Madam Speaker, the House has been drug through knotholes over campaign finance reform lately, and after numerous attempts to shut down the House and prevent us from doing the people's business, those few who are responsible have failed to address true campaign reform; and that is simply to follow the laws that are on the books today.

For campaign finance reform they have failed to address the injustice in the current system. Senator LOTT was quoted in today's Washington Times as saying most Americans would be shocked to learn that some workers in our Nation are forced to contribute to candidates or campaigns they do not support or they do not know anything about. But it happens, Madam Speaker, in every national campaign, and it is wrong.

Thomas Jefferson said, ''To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical.''

Madam Speaker, let us free the American workers from compulsory campaign contributions for candidates they cannot support. It is bad policy and it is wrong.

WHITE HOUSE'S DEFENSE OF IRS IS INDEFENSIBLE

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

Mr. TRAFICANT. Madam Speaker, the IRS has a quota system. The IRS promotes workers who bully taxpayers. The IRS targets opponents. The IRS literally snoops through our files. The IRS has caused Bruce Barron and Alex Council to actually commit suicide. And after all this, a spokesman says the White House will champion the cause of the IRS because the criticism has been blown way out of proportion. Beam me up.

Let us tell it like it is. The White House is defending an agency that has become absolutely a Gestapo-type agency, un-American, out of control. I am totally convinced that at the White House they are out for soup with the group; they have gone for lunch with the bunch; and they must be smoking dope, so help me God.

I yield back the balance of the atrocities of the IRS.

DEMOCRATS CALLING FOR CAMPAIGN FINANCE REFORM GIVES HYPOCRISY A BAD NAME

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

Mr. HEFLEY. Madam Speaker, to hear the liberals call for campaign finance reform is like Marv Albert scolding Mike Tyson for using his biting skills in an inappropriate manner.

Democrats have had to return over $2 million, $2 million, Madam Speaker, because they raised illegal money from foreign sources. In a town awash in hypocrisy, Democrats, who ran roughshod over existing fundraising laws in the last election, are giving hypocrisy a bad name.

One would expect the always fair, unbiased media to laugh them out of town when they hear the very same people who broke the law call for reform of the law. But here is the real

shocker: The ever-balanced media, far from exposing their hypocrisy, are leading the way for calls in campaign finance reform.

How many times have we heard our liberal elite friends in the media say, ''The real tragedy is not what is illegal but what is legal.'' Yes, shaking down impoverished Indian tribes, illegally mixing DNC funds with Teamster money, soliciting money from foreign nationals, laundering money and shredding evidence; no, I suppose that is not the real tragedy.

CAMPAIGN FINANCE REFORM A MUST TO HAVE A DEMOCRACY WORTH PROTECTING

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

Mr. BLAGOJEVICH. Madam Speaker, let me first of all start by quoting Winston Churchill, who said, ''Democracy is the worst system ever devised by man, except for all the rest.''

I think there is a clear need for campaign finance reform. I am a new Member and, clearly, most Members agree there is something wrong with the way we fund our campaigns and fuel our democracy. When we spend all the time we spend trying to raise money to get here, and when we consider all of the special interest money that helps us get elected to office, if that system is not corrupting, it certainly is corruptible.

We have an opportunity in this Congress to do something real about campaign finance reform. We live in a very special place. We live in the greatest country in the history of human history, and the reason we do is because of our system of government that is based on the consent of the governed. Unless the governed believe that we are acting in good faith and are truly trying to govern them in a fair way, we will not have a democracy worth protecting.

We must pass some form of campaign finance reform in this Congress if we are going to preserve what Abe Lincoln said is our last best hope on Earth.

FREEDOM MUST NOT BE COMPROMISED IN THE NAME OF REFORM

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

Mr. DELAY. Madam Speaker, for any democracy to work, it must have fair and honest elections. To have fair and honest elections, the people running for office must follow the law. Some people want to change those laws despite overwhelming evidence that they were broken during the last campaign by the Clinton-Gore reelection team.

Madam Speaker, I support efforts to make our elections more fair and honest. I support giving the American people the best information possible about candidates. I support full disclosure, so that the voters know where the money is coming from. And I support the current laws that have been broken with regularity by the Clinton-Gore campaign team. But I will not support any so-called reform effort that limits the freedom of American citizens to participate in the political process.

We must not compromise freedom in the name of reform.

REPUBLICANS HIDING BEHIND PREVIOUS ABUSES AND NOT ALLOWING CAMPAIGN FINANCE REFORM TO TAKE PLACE

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

Mr. DOGGETT. Madam Speaker, if it is illegal, prosecute it, but do not hide behind it as the Republicans have been doing throughout this session.

Indeed, our Republican colleagues came into this Congress in 1995 promising revolutionary change, and they have given us nothing but the most modest and cosmetic touchover of the way business as usual is conducted in this body.

If they had any real interest in revolutionary change in the way this Congress operates, campaign finance would have been considered in January 1995. Instead, we have had nothing but delays. And this year, having failed to reform the system in time for the last election, they are hiding behind any abuses that occurred, Democrat or Republican, in the last election, to defeat reform this time.

Even as our colleagues down the hall in the other body debate genuine campaign finance reform, they continue to refuse to schedule 1 minute for real debate, for presentation of bipartisan proposals on the floor of this House.

DEMOCRATS ATTEMPTING TO CONFUSE AND DISORIENT PUBLIC ABOUT CAMPAIGN FINANCE REFORM

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

Mr. RYUN. Madam Speaker, when I was a young boy growing up in the great State of Kansas, my friends used to play a game in which we would blindfold someone, spin them around until disoriented, and then hand them a paper tail with a thumbtack attached and point them toward a wall where a donkey was drawn. While blindfolded they were to pin the tail on the donkey.

That game represents what the Democrats are doing to the public. They have attempted to confuse and disorient the general public on campaign finance reform. Madam Speaker, this must stop.

The Democrats wrote the campaign finance rules when they were in the majority. The Democrats have now broken the rules while they are in the minority. Let us remove that mask and unblindfold the public.

Before we consider fixing campaign finance reform, let us pin the tail of blame fully on the Democratic donkey, and find out what went wrong with the Democrats first before we change the system.

□ 1015

IN SUPPORT OF FAIR REPRESENTATION FOR LATINOS

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

Ms. VELÁZQUEZ. Madam Speaker, the Republicans are trying to deny the gentlewoman from California [Ms. SANCHEZ] the seat she won in a fair election. They are carrying out an investigation whose only purpose is to harass and intimidate the gentlewoman from California [Ms. SANCHEZ] and Latino voters.

Now they are trying to prevent an accurate count in the 2000 census. By not counting Latinos, opponents of a fair census can justify slashing resources to these communities. By pretending that millions of people do not exist, Latinos are silent at every level, from school boards all the way up to Presidential elections.

Well, I have news for the Republicans. Latinos will not be silenced. Recently, the Republicans passed out a memo about how to appeal to Latinos. Well, the Republicans need to learn a lesson about politics. By insulting our community this way, they will never get another Latino to join the Republican Party.

MY, HOW THINGS HAVE CHANGED

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

Mr. BOB SCHAFFER of Colorado. Madam Speaker, my, how things have changed. George Washington, the Father of our Nation, was obsessed with the idea of establishing a national character. He believed in the marrow of his bones that the esteem and success of a nation derived above all from one thing and one thing only.

It was not the strength of its army, the wealth of its resources, the level of taxation extracted from its citizens, nor was it the refinement of his laws. No, Washington believed that the esteem and success of a nation derived above all from the virtue of its people.

To General Washington, the greatness of a nation and the greatness of its people lay in the moral character of individuals. He wrote that ''A good moral character is the first essential of man.''

How different things are today in the city that bears the name of such a great American hero. We see daily a

new standard of character, a never-never land of legalistic gymnastics that carefully avoids the outright lie, but plumbs the depths of deception, deceit, and verbal prestidigitation.

The campaign to deceive began with Medicare, blossomed in Filegate, and continues this very day with the corruption of American elections by foreign money. This new White House standard is a national disgrace.

SANCHEZ-DORNAN ELECTION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, the truth will be told. Madam Speaker, Bob Dornan is fighting for a job, and the gentlewoman from California [Ms. SANCHEZ] is fighting for her life and the life of a people who deserve a right to be represented in the U.S. Congress. What a travesty.

First, the Republicans want to counter the real counting of people by opposing sampling so that urban dwelling Hispanics, African-Americans, Asians, new immigrants to this Nation, who become new citizens cannot be counted. Why? Sheer politics.

Why do the Republicans want to continue opposing the seating of the gentlewoman from California [Ms. SANCHEZ] when absolutely no fraud has been found? Because I guess they do not believe that all of us are equal in these United States.

Former Representative Bob Dornan has led a widespread abusive and costly search for voter fraud, claiming that the lost election, that he lost by more than a thousand votes, is due to massive illegal voting by Hispanics. There we go again bashing immigrants, now citizens. And yet, after $300,000 of taxpayer money has been expended, no fraud has been found.

Stop bashing Hispanics, count them. And leave the gentlewoman from California [Ms. SANCHEZ] alone to do her job for the 46th District of California.

NUCLEAR WASTE POLICY ACT OF 1997

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

Mr. ENSIGN. Madam Speaker, I rise to talk about the nuclear waste bill of this year. Almost 80,000 tons of nuclear waste are going to be transported on our roads throughout America.

What most people do not understand is that the private companies that will be shipping this waste, if they happen to have a driver who is drunk, driving in the middle of the night through, say, St. Louis, Denver, Kansas City, Omaha, Chicago, Atlanta, Salt Lake City, Philadelphia, or Los Angeles, all of those cities this nuclear waste will be transported through, if one of the drivers of these rigs happens to crash through a house because they were drunk, this nuclear waste bill will protect that company from any kind of lawsuit.

Madam Speaker, this is outrageous. This Nuclear Waste Policy Act of 1997 needs to go down in flames. It is wrong for America. it protects the wrong people. We need to vote against it.

MS. SANCHEZ WON ELECTION FAIR AND SQUARE

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

Mr. BARRETT of Wisconsin. Madam Speaker, several weeks ago this House took the extraordinary action of banning Bob Dornan from the floor because of the embarrassing display he put on for the Members of this House and the American people.

What is unfortunate is that even though he has been banned from this floor, neither he nor the Republican party have given up on trying to restore his seat that he lost fairly and squarely to the gentlewoman from California [Ms. SANCHEZ].

The Republican Party has continued to go after the gentlewoman from California [Ms. SANCHEZ], and I fear the reason they are going after her, frankly, is because she is a woman and a minority. They think she is fair game. And even though she won the election fair and square, they are trying to reverse a decision that was made by the people of California.

The people have spoken, Madam Speaker, and what we should do is we should honor that election. There have been allegations of fraud, but there certainly have not been any allegations of fraud sufficient to upset this election. This election should not be put aside. It should stand.

The people of California, in 1998, can decide at that time whether the gentlewoman from California [Ms. SANCHEZ] should be allowed to continue in office. But it is wrong for her and it is wrong for the democratic process to take that seat now.

WHITE HOUSE CHAMPIONS THE IRS

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

Mr. ROGAN. Madam Speaker, during this last week, the other body has conducted hearings that are extremely significant to all Americans. We finally had a congressional committee turn over the rock at the IRS. What we heard were horror stories coming from citizens, taxpayers, and even from IRS agents who testified anonymously.

It did not surprise me, Madam Speaker, to see on the front page of U.S.A. Today that 69 percent of Americans believe the IRS abuses power often—not just now and then, but often. What did surprise me, Madam Speaker, was to see on the front page of the Washington Times, in response to a Republican congressional proposal that a citizen oversight board protect Americans from the IRS, that the ''White House champions the IRS.'' The headlines say that ''the President opposes citizen oversight.''

Republicans in this Chamber, Madam Speaker, have made clear that the status quo with the IRS is unacceptable. I hope that the President will reconsider his apparent refusal to see citizens oversee the IRS, instead of having it the other way around.

CALL HALT TO INVESTIGATION OF MS. SANCHEZ

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

Ms. DELAURO. Madam Speaker, I rise today to say enough is enough. It is time to call a halt to the investigation of the gentlewoman from California [Ms. SANCHEZ].

Today's resolution on the floor is nothing more than an effort by the majority party to extend and to expand this investigation. The resolution has no authority to force the Justice Department to do anything. In fact, it will only impede the ongoing legal process.

The resolution is simply an attempt by the Republican Party to create enough smoke to steal this election. If they cannot do that, they hope to simply wear the gentlewoman from California [Ms. SANCHEZ] down, depleting her time, her energy, and her financial resources in order to weaken her for reelection.

The gentlewoman from California [Ms. SANCHEZ] won this seat fair and square. Bob Dornan's wild accusations of voter fraud have been proven false. This is an outrageous waste of taxpayers' funds. It is time to call an end to this investigation.

LIBERALS CREATED THE SYSTEM WE HAVE

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

Mr. ADERHOLT. Madam Speaker, I am truly struck by the volume and breadth of passion displayed by our liberal friends on the other side. Their compassion and zeal for campaign finance reform is touching, to say the least. And when they chant over and over ''the system is rotten to the core,'' I am really impressed.

But then I started thinking, something that liberals never want people to do. I started thinking about the system. And you know what, Madam Speaker? Liberals created the system we have. For liberals to come to the floor and bemoan the system is just a little misplaced and more than a little insincere.

Madam Speaker, liberals realize the trouble the White House and the DNC are getting into, and they know they have been sold out. The liberals do not want campaign finance reform, they want to change the subject.

CAMPAIGN FINANCE REFORM

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

Ms. HOOLEY of Oregon. Madam Speaker, a bipartisan group of freshmen legislators have crafted a campaign finance reform bill that can pass with strong support from Members on both sides of the aisle.

This is not a radical measure. It is incremental and focuses exclusively on areas of consensus between Republicans and Democrats. No partisan poison pills were included in the bill.

I urge the leadership to bring a measure up that appeals to both sides like this one, not a bill loaded with partisan politics. Madam Speaker, the American people want to see reform, not political games on this floor. It is time to bring up campaign finance reform measures that address the issues we all agree on.

CAMPAIGN FINANCE REFORM

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

Mr. KINGSTON. Madam Speaker, when the White House was having organized fundraising events in the Lincoln bedroom for Democrat fundraising purposes, when it was raised by Republicans, Democrats said, ''You are being partisan.''

When the Vice President of the United States raised thousands and thousands of dollars in a Buddhist temple from Buddhist monks and nuns, who had to take vows of poverty but they came up with $5,000 each, we were called antireligious.

Now, because of some very questionable voting tactics in the California race, we are being dragged into this thing on a race count. You know, fair elections are not the domain of the party that lost, it belongs to everybody, Democrats and Republicans. We have a situation here where files have been subpoenaed.

The legislation that we are having to pass today, which I hope all the Democrats join us in voting for, simply says give us the files so we can get to the bottom of this. We want to know whether it is fair or not, because it is not a Democrat or Republican issue.

OUR RIGHT TO PRIVACY IS UNDER ATTACK

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

Ms. FURSE. Madam Speaker, as an immigrant, as a Member of Congress, as one who won her second race by a very small minority, I want to say that I am appalled that new voters, and especially voters who have Hispanic surnames, are being targeted by the attacks on the gentlewoman from California [Ms. SANCHEZ].

All of us, all of us, our right to privacy, is under attack; and this attack is coming from a man who was not allowed to serve on this floor, Bob Dornan. It is time that the choice of the voters be honored. We who represent the people of our district must reject this attack on our democratic election process. We must reject this resolution. We must support what the voters supported, the election of the gentlewoman from California [Ms. SANCHEZ] to serve the people of her district.

MARRIAGE TAX ELIMINATION ACT

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

Mr. WELLER. Madam Speaker, let me address the House with a fairly simple question: Do Americans feel that it is fair that our Tax Code imposes a higher tax on married working couples? Do Americans feel it is fair that we tax married couples more than those who live together, with two incomes, outside a marriage? Do Americans feel that it is fair that 21 million average, middle-class married couples pay an average of almost $1,400 more in taxes than a working couple with identical dual incomes living outside of marriage?

I do not believe so. I believe that the folks back home, those who pay the bills, pay their taxes on time and live by the rules, also believe it is unfair. The marriage tax should be eliminated.

The Marriage Tax Elimination Act, which now enjoys the cosponsorship of 193 Members of this House, both Democrats and Republicans, will eliminate the marriage penalty. My colleagues, I ask for bipartisan support next year and we make it a bipartisan priority to eliminate the marriage tax.

□ 1030

UNITED STATES SHOULD LEAD THE FIGHT TO RID THE WORLD OF LANDMINES

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

Mr. ALLEN. Madam Speaker, 89 nations agreed in Oslo recently to an international treaty to ban landmines. This achievement is the product of years of hard work by humanitarian groups in the United States and around the globe and honors the legacy of the late Princess Diana. Unfortunately, the administration has decided not to sign the Ottawa treaty.

I fear we have missed an historic opportunity to do the right thing. The United States should lead the fight to rid the world of landmines.

The President said that total landmine ban was a line he could not cross for the safety of our troops. Their safety is of fundamental importance, but there are alternatives to mines that can protect our soldiers.

A child in Angola does not see the line between farm and minefield and does not know where she can safely cross. Every 22 minutes, an innocent civilian is killed or maimed by a landmine.

Madam Speaker, I urge Members and citizens across the country to call on the President to think of that little girl, do the right thing and sign the Ottawa Treaty in December.

CALLING INVESTIGATION OF VOTER FRAUD A WITCH HUNT OR ATTACK ON HISPANICS IS UTTER NONSENSE

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. PRYCE of Ohio. Madam Speaker, never have we heard or seen a more shameless, despicable display of playing the race card from the bottom of the deck than that we are seeing here today with regard to the disputed Sanchez election.

I have heard investigations into voter fraud described as a witch hunt, an attack on all Hispanic voters, and an unprecedented attack on Hispanics throughout the Nation. I have heard our constitutional duty to ensure fair and honest elections characterized as targeting every Hispanic voter as if they did not have the right to vote.

What utter nonsense. Fair and honest elections are not a Republican issue or a Democratic issue. Is the other side really suggesting that voter fraud should not be investigated? Is the other side really suggesting that non-U.S. citizens should be able to vote?

The other side's reckless, irresponsible, and deliberately inflammatory charges are an insult to this great institution, to the American ideal of fair and honest elections.

WONDERING WHAT IRS WOULD MAKE OF WHITE HOUSE EXCUSES FOR CAMPAIGN FINANCE LAWBREAKING

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

Mr. PITTS. Madam Speaker, one wonders what the IRS would make of the excuses the White House makes whenever it comes to campaign finance law breaking. How ironic it is that the same administration that has an IRS out of control, an IRS that targets average citizens for political purposes, especially if they happen to work for the White House Travel Office, or used to,

an IRS that gives one absolutely no benefit of the doubt, is the same administration that actually claims to be cooperating fully with congressional investigators while putting up a stone wall bigger than the Great Wall of China.

Do my colleagues think the IRS would be satisfied with the sudden ''I don't recall'' syndrome that happens every time a White House official testifies before Congress? Do my colleagues think the IRS would let them slide with the ''no controlling legal authority'' defense? Do my colleagues think the IRS would cut them some slack if they got caught red handed and then turned around and said, ''The system made me do it, and anyway, everybody cheats''?

I wonder.

MOTION TO ADJOURN

Ms. VELÁZQUEZ. Madam Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mrs. MORELLA). The Clerk will report the motion.

The Clerk read as follows:

Ms. VELÁZQUEZ moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentlewoman from New York [Ms. VELÁZQUEZ].

The question was taken.

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 132, nays 285, not voting 16, as follows:

[Roll No. 465]

YEAS—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Clayton
Clyburn
Coburn
Conyers
Coyne
Cramer
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Goode
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilleary
Hinchey
Hinojosa
Hoyer
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
LaFalce
Largent
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moran (VA)
Murtha
Neal
Olver
Ortiz
Owens
Pascrell
Payne
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Scott
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watts (OK)
Waxman
Wexler
Woolsey
Wynn

NAYS—285

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilliard
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Moakley
Mollohan
Moran (KS)
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Yates
Young (AK)
Young (FL)

NOT VOTING—16

Dellums
Flake
Foglietta
Gephardt
Gonzalez
Klink
Lampson
Livingston
Minge
Obey
Pallone
Pelosi
Rothman
Saxton
Schiff
Schumer

□ 1053

Messrs. KIM, CUNNINGHAM, NUSSLE, PORTER, DAVIS of Virginia, ROHRABACHER, and Ms. DUNN changed their vote from ''yea'' to ''nay.''

Messrs. MCINTYRE, BOYD, PAYNE of New Jersey, ORTIZ, OLVER, LAFALCE, and RUSH, and Mrs. LOWEY and Ms. LOFGREN changed their vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, on roll-call vote No. 465, I was unavoidably detained in New Jersey attending funeral services for Florence Rothman. Had I been present, I would have voted ''no.''

THE JOURNAL

The SPEAKER pro tempore (Mr. NEY). Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

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

RECORDED VOTE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 360, nays 56, not voting 17, as follows:

[Roll No. 466]

YEAS—360

Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook

Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Foglietta
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Ryun
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—56

Abercrombie
Becerra
Bonior
Borski
Brown (CA)
Clay
Costello
DeFazio
DeLauro
Doggett
English
Ensign
Fawell
Filner
Fox
Gejdenson
Gibbons
Gutknecht
Hefley
Hill
Hilleary
Hinchey
Hooley
Hulshof
Kilpatrick
Kucinich
Lewis (GA)
LoBiondo
Lowey
Markey
McDermott
McGovern
McNulty
Menendez
Miller (CA)
Moran (KS)
Nussle
Oberstar
Pombo
Poshard
Ramstad
Rush
Sabo
Salmon
Schaffer, Bob
Schumer
Sessions
Stark
Stupak
Taylor (MS)
Thompson
Velazquez
Vento
Visclosky
Waters
Weller

NOT VOTING—17

Armey
Clayton
Coburn
Dellums
Dicks
Flake
Gephardt
Gonzalez
Hastert
Hilliard
Lampson
Pallone
Pelosi
Pickett
Rothman
Saxton
Schiff

□ 1111

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

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, on roll-call vote No. 466, I was unavoidably detained in New Jersey attending funeral services for Florence Rothman. Had I been present, I would have voted ''yes.''

CONFERENCE REPORT ON H.R. 2203, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 254 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 254

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

□ 1115

The SPEAKER pro tempore (Mr. NEY). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only and should be limited to debate on the issue at hand.

Mr. Speaker, House Resolution 254 provides for the routine consideration of the fiscal year 1998 energy and water development appropriations bill. The resolution waives all points of order against the conference report and against its consideration. The rule provides that the conference report should be considered as read.

Let me begin my congratulating the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO] for ably guiding the energy and water appropriations bill through conference. The product of their hard work is a fiscally responsible conference report that spends $1.9 billion less than the President requested, once again demonstrating to the taxpayers that this Congress is serious about cutting waste and prioritizing our spending.

Mr. Speaker, I believe this bill does an excellent job of accurately assessing our Nation's energy and water needs, adjusting the administration's request for water resources infrastructure. For example, the conference report provides funding for important flood control activities of the Army Corps of Engineers, a need that was definitely brought to light by the devastating floods that ravaged the South and Midwest last winter and throughout this past spring.

I would like to commend the gentleman from Pennsylvania [Mr. MCDADE] and the subcommittee for their continued support of the West Columbus flood wall project. In 1913, 1937, and 1959, melting snow and heavy rains caused the Scioto River to overflow its banks. The resulting catastrophic flood caused the loss of many lives, destroyed homes and businesses, and damaged millions of dollars' worth of residential and commercial property. Ensuring a continued Federal commitment to this project is essential to providing the West Columbus community peace of mind and a real measure of protection from the looming threat of destructive floods. There are examples all across our Nation of exactly the same situation found in this conference report.

I would also note that the conference report continues our commitment to downsizing and streamlining the Federal Government by imposing a number of management reforms on the Department of Energy, all designed to keep the Department focused, efficient, and accountable to the taxpayers. There are more than a few of my colleagues who view the Department of Energy as the epitome of wasteful bureaucracy that has outgrown its original limited purpose. How the Department responds to the reforms implemented by this bill will send an important message to Congress about what the future of this agency should be.

In the meantime, the conference report will provide the necessary DOE funds for basic scientific research, accelerated cleanup of contaminated DOE sites, maintenance of our Nation's nuclear weapons stockpile, and a continuation of solar renewable energy programs.

In addition, the conference report begins the phaseout of funding for another agency that has outlived its necessity by terminating the appropriations for the Tennessee Valley Authority after fiscal year 1998. I should note that through this legislation the TVA will receive $70 million for its nonpower program, but this amount represents a 34 percent cut below the current level and the administration's request.

Mr. Speaker, as the fiscal year draws to a close, I encourage my colleagues to adopt the rule before us without delay so that the House may proceed with consideration of the fiscal year 1998 energy and water conference report. I urge support for both the rule and the underlying legislation.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague and friend, the gentlewoman from Ohio [Ms. PRYCE], for yielding me the customary half hour.

Mr. Speaker, I rise in support of this rule and in support of this energy and water conference report. I also would like to congratulate my colleagues, the ranking member, the gentleman from California [Mr. FAZIO], and the chairman, the gentleman from Pennsylvania [Mr. MCDADE], for a job well done. The gentleman from Pennsylvania [Mr. MCDADE], in his first year as chairman, has worked very hard with the other body to make sure that House Members were treated fairly.

This conference report will make some very serious improvements in our country, especially in our country's infrastructure, and the subcommittee members should be congratulated on their diligence and on their hard work.

Mr. Speaker, this rule, like most conference report rules, waives points of order against the conference report and provides for 1 hour of debate. This conference report also fully funds the budget request for the Energy Department's arms control and nonproliferation programs as the House has instructed them to do. It restores funding for the Energy Department, which means that they can continue to cut spending through normal attrition instead of making radical staff cuts which could hurt our country's energy program. The Energy Department, in addition to atomic defense activities, conducts basic science and energy research which I think is tremendously important, especially in today's high-tech world.

I am glad that the committee did not have to make major staff cuts, and once again, Mr. Speaker, I congratulate my ranking member, the gentleman from California [Mr. FAZIO], and my chairman, the gentleman from Pennsylvania [Mr. MCDADE], for the conference committee and all the other conference committee members for their hard work. I urge my colleagues to support the rule.

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

Ms. PRYCE of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 415, nays 3, not voting 15, as follows:

[Roll No. 467]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—3

Ensign
Gibbons
Kelly

NOT VOTING—15

Barr
Bishop
Cardin
Dellums
Farr
Flake
Gonzalez
Hunter
LaFalce
Pallone
Pelosi
Pickett
Rothman
Saxton
Schiff

☐ 1141

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

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, On rollcall vote No. 467, I was unavoidably detained in New Jersey attending funeral services for Florence Rothman. Had I been present, I would have voted ''yes.''

Mr. McDADE. Mr. Speaker, pursuant to House Resolution 254, I call up the conference report on the bill (H.R. 2203), making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. NEY). Pursuant to House Resolution 254, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 16, 1997, at page H7917.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes.

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

□ 1145

GENERAL LEAVE

Mr. McDADE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the pending bill and that I may be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. NEY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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

Mr. Speaker, I rise, of course, in support of this conference report and urge my colleagues to do likewise. We are delighted, all of us on both sides of the subcommittee, to present this bill before the close of the fiscal year, and may I say to my colleagues that this required cooperative efforts on both sides of this aisle and on both sides of the Capitol to get this done.

We met in conference and concluded last Wednesday, after a very difficult series of negotiations with the Senate. The key numbers are that this bill is $2 billion, roughly, lower than the administration's budget request appropriating $20.7 billion. It is also lower than the Senate level. And of the total amount, $20.7 billion, roughly 56 percent of it is devoted to the atomic energy defense activities, the 050 account within the Department of Energy.

We had a lot of difficult issues, Mr. Speaker, and I am pleased that we were able to work them out in a manner that protected the Members of the House and the prerogatives of the House. As a consequence of all of that, the final appropriation for the Corps of Engineers is $3.9 billion, which is very roughly, almost to the penny, the amount that was agreed upon when we left the House.

In addition to that, Mr. Speaker, may I say that there were a number of initiatives that were agreed upon by the House, numbering about seven general provisions, all of which in one form or another survived the conference. I want to say to my colleagues in the House that they bear a bit of their attention because they do represent significant reforms with respect to the Department of Energy.

As we went through this account exercising our duty for general oversight, we discovered, to our shock, that the Department of Energy had the authority to enter into M&O contracts without ever going to competitive bid. The worst case that we found, Mr. Speaker, was a bid that had been outstanding and extended periodically, since the Manhattan Project, 40 years ago. I am talking about a contractor, Mr. Speaker, for 40 years not having to bid on a contract.

There are other examples, as well. That is the worst case. We denied them the opportunity of getting to go to a no-bid unless there is a unique research project, like hiring Albert Einstein, in which case we might consider a waiver. But they must get a waiver and they must consult with us.

We found out, as well, that the same sort of exemption removed the Federal acquisition regulations from the Department of Energy. In other words, they could not only go out and do a no-bid contract, but they could do one that need not comply with the Federal regulations on acquisition which apply to every other agency of the Government.

Mr. Speaker, those Federal acquisition rules and the requirement for competition are the taxpayers' guarantee that we will have competition and, therefore, lower prices and higher quality work. There will not be any rip-offs or abuses, or at least as few as we can help. And we hope we do not have any within the Department.

Perhaps the most difficult issue that we had as we went through the debate with the Senate was the issue of TVA. As my colleagues will recall, there was a zero appropriation for appropriated accounts within the TVA. We met with the Senate, which had a substantial amount; and we finally agreed, as we should have, on a number that represents a 33-percent reduction in appropriated funds for the TVA for the last fiscal year. And perhaps most importantly, working with all of my colleagues who have great interests, in return for that we agreed that this would be the final year in which TVA will receive any kind of appropriated dollars.

An item of great interest to the Members is the Bay-Delta Environmental Enhancement and Water Supply project in California; $85 million is included in the bill for that important project that affects the San Francisco Bay-Sacramento-San Joaquin Delta estuary in Northern California.

The amount is less than the $120 million that we appropriated, with the great help of my friend from California. But it is considerably more than the $50 million that the Senate included. And I think everybody's last analysis is this will really kick-start the project and get it moving expeditiously.

Mr. Speaker, there were several other items that were within the conference report with which we had great difficulties. We have resolved them. This is a unanimous conference report. Every single conferee has agreed to the provisions.

I want to say to my colleagues, Mr. Speaker, that without the able cooperation of the gentleman from California [Mr. FAZIO], the ranking member, we would not have achieved that kind of unanimity. I want to commend every single member of the subcommittee. Every one of them has put an imprint and a footprint on this bill and a positive one.

Finally, Mr. Speaker, I want to thank the very able staff members, who burn the midnight oil 24 hours a day, many days a week to bring this work product to us. I hope that there will be a resounding vote in the House to adopt it.

Mr. Speaker, I rise in support of the conference agreement to accompany H.R. 2203, making appropriations for energy and water development in fiscal year 1998.

Mr. Speaker, I am pleased that the conference agreement on energy and water development is being considered by the House before the expiration of the current fiscal year. Getting this agreement to the floor expeditiously required the concerted and cooperative efforts of the conferees from both sides of the Hill and both sides of the aisle. I am especially proud of the managers on the part of the House, whose dedicated work produced a fair compromise agreement.

The conference on the energy and water bill concluded last Wednesday night after difficult negotiations with the Senate. The total amount of spending in the conference agreement is $20.7 billion. This represents an increase of $729 million above the House level and $782 million over the fiscal year 1997 level. This amount, however, is $1.9 billion lower than the administration's budget request and $58 million below the Senate recommendation for fiscal year 1998. Of the $20.7 billion appropriated, $11.5 billion or 56 percent is committed to the atomic energy defense activities of the Department of Energy.

Negotiations were particularly arduous this year because of the substantial differences between the House and Senate versions of the legislation. I am pleased to report that the House conferees successfully defended the House position on a great number of items in disagreement between the two Chambers. In particular, the House conferees protected the interests of Members in water infrastructure development; as a consequence, the conference committee agreed to a final appropriation of $3.9 billion for the water resource programs of the Army Corps of Engineers. This amount, which is nearly identical to the House-passed level, is $262 million higher than had been included in the Senate bill.

Furthermore, the final agreement includes a number of initiatives recommended by the

House, including: General provisions to promote greater accountability and efficiency within the U.S. Department of Energy; transfer of the Formerly Utilized Sites Remedial Action Program from the Department of Energy to the Corps of Engineers; and a requirement for external review of DOE construction projects. The conferees crafted a delicate compromise with respect to the Tennessee Valley Authority. For fiscal year 1998, TVA will receive $70 million for its nonpower programs; this represents a 33-percent reduction from both the fiscal year 1997 level and the fiscal year 1998 budget request. For fiscal year 1999 and thereafter, the Authority will have to pay for these programs with internally generated revenues and savings.

The conference agreement also includes $85 million for the Bay-Delta Environmental Enhancement and Water Supply project, a new multiagency effort to protect and enhance water resources in the San Francisco Bay/Sacramento-San Joaquin Delta estuary (the bay-delta) in northern California. Although this amount is less than the $120 million recommended by the House, it is considerably more than the $50 million included in the Senate bill. We are confident that this sum, representing a generous first-year installment on a multiyear Federal commitment, will be sufficient to kick-start the effort to save the bay-delta.

As previously noted, the conference agreement includes a number of general provisions within the Department of Energy title of the bill. These provisions, originally recommended by the House, are intended to enhance accountability, promote efficiency, and control mission creep at the Department of Energy. One of these provisions, section 301, requires the Department to competitively bid all contracts, unless the Secretary of Energy determines that a waiver of this requirement is necessary and notifies Congress of the waiver 60 days in advance. These are contracts at the Department of Energy which have not been competed since the Manhattan project. Section 301 is designed to vigorously promote competition, an effective tool for reducing costs and increasing contractor accountability.

Another provision, section 302, requires the Department of Energy to adhere to the Federal Acquisition Regulation. As observed by the General Accounting Office, the Department has its own unique procurement regulations which permit deviations from normal contracting requirements used by most Federal agencies. These nonstandard contract clauses can limit DOE's ability to adequately protect the Government's interests and ensure the efficient use of contract funds. The conferees have directed the Department to ensure that Federal Acquisition Regulation policies are used in drafting new contracts or amending or modifying existing contracts. Along with competition in awarding contracts, consistency in contract requirements is a critical element in increasing contractor accountability.

Mr. Speaker, due to a production error, report language agreed to by conferees from the House and the Senate was inadvertently excluded from the joint statement of the managers. The text of that language follows:

> With respect to funds appropriated in fiscal year 1993 and made available to the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, the conferees strongly recommend that the Department disperse these funds only in accordance with the original intent to place the facility on property owned by the Research Park Corporation in Baton Rouge, Louisiana or contiguous property thereto owned by Louisiana State University, Baton Rouge.

We fully expect that the Department of Energy and interested stakeholders will regard this language as though included in full in the joint explanatory statement of the committee of conference.

Mr. Speaker, I would like to once again thank and commend the Members of the House Subcommittee on Energy and Water Development for their extraordinary efforts with respect to this conference agreement. I am especially indebted to the ranking minority member, the Honorable VIC FAZIO, whose good will and cooperation were essential to the expenditous conclusion of conference.

Mr. Speaker, I urge all of my colleagues in the House to support the conference agreement to accompany H.R. 2203, making appropriations for energy and water development in fiscal year 1998.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1998 (H.R. 2203)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	153,872,000	150,000,000	157,260,000	164,065,000	156,804,000	+2,932,000
Construction, general	1,081,942,000	1,062,470,000	1,475,892,000	1,284,266,000	1,473,373,000	+391,431,000
(By transfer)	(1,000,000)					(-1,000,000)
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	310,374,000	266,000,000	285,450,000	289,000,000	296,212,000	-14,162,000
Emergency appropriations (P.L. 105-18)	20,000,000					-20,000,000
Operation and maintenance, general	1,697,015,000	1,618,000,000	1,726,955,000	1,661,203,000	1,740,025,000	+43,010,000
Emergency appropriations (P.L. 104-208)	19,000,000					-19,000,000
Emergency appropriations (P.L. 105-18)	150,000,000					-150,000,000
Regulatory program	101,000,000	112,000,000	112,000,000	106,000,000	106,000,000	+5,000,000
Flood control and coastal emergencies	10,000,000	14,000,000	14,000,000	10,000,000	4,000,000	-6,000,000
Emergency appropriations (P.L. 105-18)	415,000,000					-415,000,000
Formerly utilized sites remedial action program			110,000,000		140,000,000	+140,000,000
General expenses	149,000,000	148,000,000	148,000,000	148,000,000	148,000,000	-1,000,000
Total, title I, Department of Defense - Civil	4,107,203,000	3,370,470,000	4,029,557,000	3,662,534,000	4,064,414,000	-42,789,000
(By transfer)	(1,000,000)					(-1,000,000)
TITLE II - DEPARTMENT OF THE INTERIOR						
Central Utah Project Completion Account						
Central Utah project construction	25,827,000	23,743,000	23,743,000	23,743,000	23,743,000	-2,084,000
Fish, wildlife, and recreation mitigation and conservation	11,700,000	11,610,000	11,610,000	11,610,000	11,610,000	-90,000
Utah reclamation mitigation and conservation account	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	
Program oversight and administration	1,100,000	800,000	800,000	800,000	800,000	-300,000
Total, Central Utah project completion account	43,627,000	41,153,000	41,153,000	41,153,000	41,153,000	-2,474,000
Bureau of Reclamation						
General investigations	16,650,000					-16,650,000
Construction program	394,056,000					-394,056,000
Operation and maintenance	267,876,000					-267,876,000
Emergency appropriations (P.L. 105-18)	7,355,000					-7,355,000
Water and related resources		651,552,000	651,931,000	688,379,000	694,348,000	+694,348,000
California Bay-Delta ecosystem restoration		143,300,000	120,000,000	50,000,000	85,000,000	+85,000,000
Loan program	12,715,000	10,425,000	10,425,000	10,425,000	10,425,000	-2,290,000
(Limitation on direct loans)	(37,000,000)	(31,000,000)	(31,000,000)	(31,000,000)	(31,000,000)	(-6,000,000)
Policy and administration	46,000,000	47,658,000	47,658,000	47,558,000	47,558,000	+1,558,000
Colorado River Dam fund (by transfer, permanent authority)	(-3,774,000)			(-5,592,000)	(-5,592,000)	(-1,818,000)
Central Valley project restoration fund	38,096,000	39,130,000	39,130,000	33,130,000	33,130,000	-4,966,000
Total, Bureau of Reclamation	782,748,000	892,065,000	869,144,000	829,492,000	870,461,000	+87,713,000
Total, title II, Department of the Interior	826,375,000	933,218,000	910,297,000	870,645,000	911,614,000	+85,239,000
(By transfer)	(-3,774,000)			(-5,592,000)	(-5,592,000)	(-1,818,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy supply	2,699,728,000	2,999,497,000	880,730,000	953,915,000	906,807,000	-1,792,921,000
Energy assets acquisition		43,582,000		13,025,000		
Uranium supply and enrichment activities	43,200,000					-43,200,000
Gross revenues	-42,200,000					+42,200,000
Net appropriation	1,000,000					-1,000,000
Non-defense environmental management			497,619,000	664,684,000	497,059,000	+497,059,000
Uranium enrichment decontamination and decommissioning fund	200,200,000	248,788,000	220,200,000	230,000,000	220,200,000	+20,000,000
Science	996,000,000	875,910,000	2,207,632,000	2,084,567,000	2,235,708,000	+1,239,708,000
Science assets acquisition		110,250,000		138,510,000		
Nuclear Waste Disposal Fund	182,000,000	190,000,000	160,000,000	160,000,000	160,000,000	-22,000,000
Departmental administration	215,021,000	232,604,000	214,723,000	220,847,000	218,747,000	+3,726,000
Miscellaneous revenues	-125,388,000	-131,330,000	-131,330,000	-131,330,000	-131,330,000	-5,942,000
Net appropriation	89,633,000	101,274,000	83,393,000	89,517,000	87,417,000	-2,216,000
Office of the Inspector General	23,853,000	29,499,000	27,500,000	27,500,000	27,500,000	+3,647,000
Environmental restoration and waste management:						
Defense function	(5,619,304,000)	(6,058,499,000)	(5,263,270,000)	(5,654,974,000)	(5,520,238,000)	(-99,066,000)
Non-defense function	(791,911,000)	(933,472,000)	(717,819,000)	(894,684,000)	(717,259,000)	(-74,652,000)
Total	(6,411,215,000)	(6,991,971,000)	(5,981,089,000)	(6,549,658,000)	(6,237,497,000)	(-173,718,000)

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1998 (H.R. 2203) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Atomic Energy Defense Activities						
Weapons activities	3,911,198,000	3,576,255,000	3,943,442,000	4,302,450,000	4,146,692,000	+235,494,000
Defense environmental restoration and waste management	5,459,304,000	5,052,499,000	5,263,270,000	5,311,974,000	4,429,438,000	-1,029,866,000
Defense facilities closure projects	.....	.....	.....	.....	890,800,000	+890,800,000
Defense environmental management privatization	160,000,000	1,006,000,000	.....	343,000,000	200,000,000	+40,000,000
Subtotal, Defense environmental management	5,619,304,000	6,058,499,000	5,263,270,000	5,654,974,000	5,520,238,000	-99,066,000
Other defense activities	1,605,733,000	1,605,981,000	1,580,504,000	1,637,981,000	1,666,008,000	+60,275,000
Defense nuclear waste disposal	200,000,000	190,000,000	190,000,000	190,000,000	190,000,000	-10,000,000
Defense asset acquisition	.....	2,166,859,000	.....	.....	.....	.....
Total, Atomic Energy Defense Activities	11,336,235,000	13,597,594,000	10,977,216,000	11,785,405,000	11,522,938,000	+186,703,000
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	4,000,000	1,000,000	1,000,000	3,500,000	3,500,000	-500,000
Capital assets acquisition	.....	.....	.....	20,000,000	10,000,000	+10,000,000
Operation and maintenance, Southeastern Power Administration	16,359,000	14,222,000	12,222,000	12,222,000	12,222,000	-4,137,000
Operation and maintenance, Southwestern Power Administration	25,210,000	26,500,000	25,210,000	26,500,000	25,210,000	.....
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	182,230,000	194,334,000	189,043,000	180,334,000	189,043,000	+6,813,000
(By transfer, permanent authority)	(3,774,000)	.....	.....	(5,592,000)	(5,592,000)	(+1,818,000)
Falcon and Amistad operating and maintenance fund	970,000	1,065,000	970,000	1,065,000	970,000	.....
Total, Power Marketing Administrations	228,769,000	237,121,000	228,445,000	243,621,000	240,945,000	+12,176,000
Federal Energy Regulatory Commission						
Salaries and expenses	146,290,000	167,577,000	162,141,000	162,141,000	162,141,000	+15,851,000
Revenues applied	-146,290,000	-167,577,000	-162,141,000	-162,141,000	-162,141,000	-15,851,000
Total, title III, Department of Energy	15,757,418,000	18,433,515,000	15,282,735,000	16,390,744,000	15,898,574,000	+141,156,000
(By transfer)	(3,774,000)	.....	.....	(5,592,000)	(5,592,000)	(+1,818,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	160,000,000	165,000,000	160,000,000	160,000,000	170,000,000	+10,000,000
Defense Nuclear Facilities Safety Board	16,000,000	17,500,000	16,000,000	17,500,000	17,000,000	+1,000,000
Nuclear Regulatory Commission:						
Salaries and expenses	471,800,000	476,500,000	462,700,000	476,500,000	468,000,000	-3,800,000
Revenues	-457,300,000	-457,500,000	-446,700,000	-457,500,000	-450,000,000	+7,300,000
Subtotal	14,500,000	19,000,000	16,000,000	19,000,000	18,000,000	+3,500,000
Office of Inspector General	5,000,000	4,800,000	4,800,000	4,800,000	4,800,000	-200,000
Revenues	-5,000,000	-4,800,000	-4,800,000	-4,800,000	-4,800,000	+200,000
Subtotal	.....	.....	.....	.....	.....	.....
Total	14,500,000	19,000,000	16,000,000	19,000,000	18,000,000	+3,500,000
Nuclear Waste Technical Review Board	2,531,000	3,200,000	2,400,000	3,200,000	2,600,000	+69,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	106,000,000	106,000,000	.....	86,000,000	70,000,000	-36,000,000
Total, title IV, Independent agencies	299,031,000	310,700,000	194,400,000	285,700,000	277,600,000	-21,431,000
Grand total:						
New budget (obligational) authority	20,990,027,000	23,047,903,000	20,416,989,000	21,209,623,000	21,152,202,000	+162,175,000
Appropriations	(20,378,672,000)	(23,047,903,000)	(20,416,989,000)	(21,209,623,000)	(21,152,202,000)	(+773,530,000)
Emergency appropriations	(611,355,000)	.....	.....	.....	.....	(-611,355,000)
(By transfer)	(1,000,000)	.....	.....	.....	.....	(-1,000,000)

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

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

Mr. Speaker, I rise today in strong support of H.R. 2203, the Energy and water conference report for fiscal year 1998.

I want to thank the gentleman from Pennsylvania [Mr. MCDADE] for all the work he has done to bring about a balanced, reasonable, and fair bill that provides adequate funding for not only important water projects all over this country, but for vital energy programs as well.

I want to say on behalf of my Democratic colleagues on the subcommittee, the gentleman from Indiana [Mr. VISCLOSKY], the gentleman from Arizona [Mr. PASTOR], and the gentleman from Texas [Mr. EDWARDS], how much we appreciate the way in which the majority has worked with us, and also thank the staff for the degree to which they have cooperated in our mutual goal of bringing a bipartisan bill to the floor.

Mr. Speaker, Chairman MCDADE has reached out to Members on both sides of the aisle to try to move infrastructure-related projects to completion and to begin a limited number of reconnaissance and feasibility studies mandated by the Water Resources Development Act of 1996. We have all read in the Washington Post how some of these projects may be subjected to the line-item veto.

I think there is a serious question worth considering here: our continued commitment to the types of infrastructure funding that we present in this bill.

There is little debate about the need for a Transportation appropriations bill or an ISTEA bill to authorize and fund our highways and mass transit systems.

I believe the projects presented in this bill—projects that contribute to building our modern harbors and keeping them serviceable; projects that contribute to the flood control systems that protect our communities; and projects that contribute to our abundant production agriculture—these projects are equally important and equally worthy of both congressional and administration support.

For example, in the Sacramento area, the bill supplies funding for the long-term flood control improvements pointed out not by this year's floods, but by the flooding of 1986. However, funding is also provided for a comprehensive study of the Sacramento and San Joaquin River Basins, based on this year's flood event, to determine what additional flood control measures may need to be adopted. An important component of such a comprehensive study will be the post-flood assessment and a hydraulic/hydrologic model of the entire system.

Other Members can testify to the importance of these projects to the infrastructure in their own regions which the Nation depends upon for interstate commerce and sustained economic development.

I also want to particularly highlight a new program in our bill that has been generously funded—the Calfed initiative for San Francisco-Sacramento Bay-Delta. The Bay-Delta is a source of drinking water for 20 million people and irrigation water for over 200 crops—45 percent of the Nation's produce.

The people of the State of California made a significant commitment to this ecosystem restoration by approving a nearly $1 billion bond issue in 1996. There has been a bipartisan effort by a united California congressional delegation, and by urban and agricultural water users as well as the environmental community to acquiring the Federal share of ecosystem restoration projects. I am pleased to see that $85 million has been provided in this bill, and I can assure you that California will use this money well.

I also want to comment briefly on a complicated subject—the Central Valley project restoration fund. This fund is generated by assessments on water and power users, and is devoted to ecosystem restoration. The conferees ultimately settled on a $7 million reduction in the restoration fund, an even split between the Houses. Although this amount does not fully fund the restoration fund for 1998, the conference did well given California's extensive priorities.

The conferees were able to voice the limitations on the 1998 funding in terms that do not amend the Central Valley Project Improvement Act, and therefore will not affect restoration fund collections or appropriations in any other year.

The CVPIA's restoration fund provisions are confusing, contradictory, unfair, and counterproductive. They should be reformed by the authorizing committee as soon as possible.

On the energy side, this bill continues our investment in the development of alternative energy sources. Finding alternative means to help meet the energy needs of our growing economy is critical if we are to tackle air pollution and other environmental threats. Our strategy to reduce greenhouse gas emissions that contribute to global climate change assumes that cleaner solar and renewable energy sources will be available and economically viable in the future, and this bill supports that goal. Alternative energy sources are also critical to our energy security by helping reduce our reliance on foreign oil.

The bill invests $302 million in research and development into a range of promising technologies that make use of a variety of potential energy sources, including solar and photovoltaics, biomass, hydrogen, geothermal sources, and wind. And it does so while encouraging industry interest and commitment through cost-share programs that will later ensure the technologies will be commercially viable.

The bill also continues vital research and development in fusion energy, supports the national laboratories, and provides for national security by supporting the development of critical verification technology to assess the safety and reliability of our nuclear stockpile. It also funds the cleanup of the nuclear weapons complex to fulfill the country's obligation to restore those sites. The subcommittee has worked hard to encourage the Department to be more efficient and effective, and Secretary Peña has been highly responsive to this concern.

In short, this is a balanced bill, but one that should have the support of every Member and the administration as well. I ask that we support the work of our committee and the work of the House-Senate conference with a "yes" vote.

Mr. Speaker, if appropriate at this time, I would place my remarks in the RECORD and yield to Members who have an interest in colloquies.

Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. DICKS], a colleague on the Committee on Appropriations.

Mr. DICKS. Mr. Speaker, I would like to engage the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO] in a brief colloquy with regard to language in the conference report.

As the chairman will recall, during the deliberations over the conference report on the Energy and Water Appropriations Act for fiscal year 1998, both Senators from the State of Washington and I were interested in clarifying Senate language that addressed the Corps of Engineers' actions with regard to the Terminal 5 expansion project at the Port of Seattle. We appreciate the conference committee's decision to include a statement urging the corps to make a final decision with regard to the Port of Seattle permit application.

However, events that have occurred after the conference committee adjourned have rendered the language unnecessary. Specifically, the Muckleshoot Indian Tribe, which had been opposing the terminal 5 expansion, has now adopted a resolution approving a settlement that has been reached between the tribe and the port, including significant mitigation and enhancement measures that will benefit the tribes who utilize the Duwamish River fishery.

In this resolution of approval, the Muckleshoot Tribe has requested recognition in Congress that the language inserted in the conference report relating to the terminal 5 project is no longer necessary. We appreciate the committee's assistance in this project, which is critically important to the further development of international trading opportunities at the Port of Seattle.

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

Mr. DICKS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, let me say to my friend, the gentleman from Washington [Mr. DICKS], that I appreciate the information that he has provided to update the Committee on the status of the terminal 5 expansion project in Seattle. We are grateful for his input.

Mr. FAZIO of California. Mr. Speaker, if the gentleman will yield, that certainly satisfies me. I appreciate the information the gentleman from Pennsylvania [Mr. MCDADE] provides.

Mr. DICKS. Mr. Speaker, reclaiming my time, I would take the remaining time to thank the chairman and ranking member for all the help for our State. We have many important projects, and they have done an outstanding job. We strongly support the bill.

Mr. FAZIO of California. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from

Connecticut [Ms. DELAURO] for purposes of a colloquy.

Ms. DELAURO. Mr. Speaker, I rise to engage in a colloquy with the subcommittee chairman.

I would like to applaud both the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO], the ranking member, for the work that has been done to put this bipartisan bill together.

As my colleagues know, I have been concerned about the delays in contracting out the Point Beach, Milford Plain Army Corps of Engineers project. This project would enlist Army Corps of Engineers' assistance in raising 58 homes above flood level. The Corps of Engineers is authorized to provide this type of assistance to communities such as Milford under the Rivers and Harbors Act of 1962.

After consultation with Members of both the authorizing and appropriations committees, it is my understanding that no further authorization and no earmarked appropriation is necessary for the Corps to bid out this project.

Is that the understanding of the gentleman from Pennsylvania [Mr. MCDADE] as well?

Mr. MCDADE. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. That understanding is mine completely.

Ms. DELAURO. Mr. Speaker, reclaiming my time, this is good news for the people of Milford, whose homes can now be made safe from flooding. I thank the chairman of the authorizing committee for clarification, and I thank the ranking member.

Mr. FAZIO of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS] for purposes of a colloquy as well.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from California [Mr. FAZIO] for yielding me the time.

I need to ask the chairman's assistance in clarifying one aspect of the conference report. Section 304 of the conference report says that DOE cannot use funds from other accounts to augment the funds provided for ''severance payments and other benefits and community assistance grants authorized under section 3161'' of the 1993 Defense Authorization Act.

As the author of section 3161, I am aware that severance payments and other payments are authorized under it. I am also aware that sometimes DOE makes severance payments in order to comply with other contract provisions.

Am I right, Mr. Chairman, that section 304 should be understood as not intending to restrict DOE's ability to fulfill such contractual requirements but merely sets a ceiling on payments not required by contract but made under 3161?

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

Mr. SKAGGS. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. May I say to my friend, the gentleman from Colorado [Mr. SKAGGS], his understanding is absolutely correct.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the chairman for yielding me the time.

I ask the chairman of the Appropriations Subcommittee on Energy and Water if he would engage me in a colloquy regarding the transfer for a FUSRAP to the Army Corps of Engineers.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. MCDADE] for his patience in this issue. Mr. Chairman, my district in Missouri has a major FUSRAP site which contains nuclear contamination from the Manhattan Project and other hazardous waste. For 15 years, we have worked with the Department of Energy to clean up this site.

Finally, in just the past 2 weeks, after much frustration and delay, we have come to the point where DOE has begun preliminary cleanup efforts. Given this recent progress, the news of the FUSRAP program's transfer out of DOE has, quite understandably, caused a great deal of distress in the community.

While we are by no means questioning the corps' ability to handle the FUSRAP project, we are concerned that potential delays caused by the transfer will undo much of the recent progress.

With site recommendations already made, feasibility studies concluded, and contracts let, it is important that the corps honor the preliminary groundwork laid by DOE in order to avoid any further delays.

Will the corps be willing to respect these studies, site plans, and contracts?

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

Mr. TALENT. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, let me say to my distinguished colleague from Missouri, Mr. TALENT, that the committee fully intends that the feasibility studies and the site recommendations prepared by the DOE will be accepted and carried out by the Corps of Engineers.

Furthermore, may I say to my friend that the Energy and Water Development Conference Report for fiscal year 1998 specifically contains language requiring the Corps to honor all existing contracts.

Mr. TALENT. Mr. Speaker, reclaiming my time, I thank the gentleman from Pennsylvania [Mr. MCDADE] for his concern.

One further issue: The local community has been very involved in designing a plan to clean up the site. They are concerned that the administration of the cleanup will be moved away from the St. Louis area to Omaha or Kansas City, reducing their input and influence on the cleanup process.

When the Army Corps of Engineers takes over the FUSRAP program, will the St. Louis program be managed out of the St. Louis Corps' office?

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

Mr. TALENT. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, let me say to my friend that it is the understanding of the committee that the cleanup and restoration of contaminated sites following within the purview of FUSRAP will be managed and executed by the nearest civil works district of the Corps of Engineers which has been designated as an improved design center for handling hazardous, toxic, and radioactive wastes.

Local communities throughout the country have been very involved in designing cleanup plans at FUSRAP sites, and this strategy effectively maintains community input in the process.

Mr. TALENT. Mr. Speaker, I thank the gentleman from Pennsylvania for his assurances and his assistance.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY], who has had so much influence on the amount of funds for his State in this bill.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding this time to me.

This Chamber at its best moments represents their work on a bipartisan basis of Members coming together to address problems, problems that really mean something to the people who are struggling with them. In representing the State of North Dakota, I would wager to say that the population I represent per capita has more, and verified, water problems than any other State in the entire country.

I rise to express particular personal gratitude to the chairman, to the chairman's staff, to the ranking member, and the ranking member's staff for all of the patience and time they have spent with me in understanding our problems and in crafting a bill that responds in a meaningful way to those problems.

Mr. Speaker, we did not get everything we wanted. Certainly some of the funding limits and some of the limiting language we would have liked to have had something different. But in balance, I mean it, this really is a responsive and meaningful effort to help the people of North Dakota with the problems that presently plague them. I am very, very grateful for this effort and have enjoyed working with my colleagues in this regard. I urge support for the bill.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE], a member of the authorizing committee, who worked so hard for his State and is so influential in this bill.

Mr. WISE. Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. MCDADE] and the ranking member, the gentleman from California [Mr. FAZIO], and rise in strong support of this conference report.

Very important in this legislation is language including $1.8 million for the Marment Locks, and the action of the gentleman from Pennsylvania [Mr. MCDADE] and the ranking member, the gentleman from California [Mr. FAZIO], begin to end a lot of uncertainty for 200 families in the affected Belle area, in the affected construction area of the Marment Locks.

The conference report also provides money for the Appalachian Regional Commission which is crucial to Appalachia, and I would like to make a tribute at this point, and I would like to take a moment to pay tribute to one of its adopted sons, Michael Wenger, the Appalachian Regional Commission's State representative.

Mike has a long and distinguished history with the ARC beginning 20 years ago when, under then Governor Rockefeller, he served as the West Virginia Governor's alternate to the ARC. He ably represented West Virginia in that role. Four years later, he began representing all 13 States of Appalachia as the State's Washington representative to the ARC. In this capacity, Mike has spent many years working with local development districts, States' alternates, and Members of Congress, defending the agency and its priorities through the 1980's and into the 1990's. He has provided the States' good perspective in discussions of commission programs and ensured that the Nation keeps its commitments to the people of Appalachia.

I am going to miss Mike's detailed knowledge of the ARC's history, its politics, and its policy. I wish Mike well in his new role as deputy director of the President's Advisory Board on Race Relations. A job well done.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the very distinguished gentleman from Michigan [Mr. KNOLLENBERG], an able member of the subcommittee.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding this time to me. The gentleman from Pennsylvania [Mr. MCDADE] has done, I think, an extraordinary job, and I rise in strong support of this conference report.

I could express my appreciation to the gentleman from Pennsylvania [Mr. MCDADE] in many ways, but I think he has shepherded through not just an extraordinary bill but, frankly, something that I think is a credit to the gentleman, to the man, and it is not an easy job, as everybody knows, to perform this so-called miracle, if my colleagues will.

I also want to express my thanks to the ranking member, the gentleman from California [Mr. FAZIO]. Mr. FAZIO has again been also a strong contributor to bringing about some collegiality, some understanding, and it really has been a bipartisan effort.

I would be remiss if I did not also thank the staff. They have all been monumentally resourceful about this whole thing in bringing about closure on some very, very difficult points that we have brought to closure in a way that I think benefits everybody.

Mr. Speaker, I will have my statement, which is a longer version in support of H.R. 2203, included in the appropriate place in the CONGRESSIONAL RECORD.

I rise in strong support of this conference report. I want to reexpress my appreciation to Chairman MCDADE and Ranking Member FAZIO for their efforts and assistance with this bill. I also want to give a big thanks to the Energy and Water Subcommittee staff who were always ready and able to assist me and my staff on this bill.

H.R. 2203 includes several very important reforms that should have a dramatic impact on accelerating the environmental management cleanup of the Department of Energy and moving the Department forward after years of too little progress. Among the reforms are a funding mechanism to bring closure to the Rocky Flats site and the Ferndale site; transferring FUSRAP to the Corps of Engineers, who have been successfully completing similar low level cleanup programs for the Department of Defense; and stopping the flow of funding away from the mission-related work of the environmental management program to pay for separation benefits for workers who are displaced because of efficiency decisions of their employers. And, although not related to DOE, this bill contains another very important reform—the end of TVA appropriated funding after fiscal year 1998.

Mr. Speaker, I want to be clear about our resolve on the Department's efforts to accelerate cleanup. We support the vision brought forth by the Department but we were very discouraged in June with the 10-year plan—Accelerating Cleanup: Focus on 2006, Discussion Draft—that was brought forth. After a year of preparation, the result appeared to be nothing more than a top-level framework to begin the planning process. it was a document not supported by the details or by what could be realistically achieved. With this in mind, it is essential that DOE bring forth with next year's budget request, a detailed and defensible closure plan, based on aggressive but realistic estimates—that is, budget quality data—of the most that can be completed and closed out within the 10-year timeframe. I strongly believe that this vision can be accomplished by doing more sooner rather than later, by substantial mortgage and risk reduction, and by leveraging technology. As I've said many times before, it's time to get on with it.

One provision I worked with the committee to have included in H.R. 2203 is bill and report language under the Worker and Community Transition Program authorized under section 3161 of the 1993 National Defense Authorization Act. This year's appropriation stops the flow of funding from mission accomplishment to fund worker separations that are due to business and efficiency decisions. I believe this will be a tremendous benefit to the environmental management program, who has been required to bear the cost of the more than $500 million spent thus far on these types of separations. This bill provides more than enough funds to protect this narrow class of workers, displaced from current defense missions of the Department, who are the often unrecognized heroes of the cold war.

However, the enormous task of cleaning up the former nuclear defense facilities has been estimated to cost over $200 billion. Far too many dollars have been diverted away from the primary missions at these sites—to clean the environment. This bill protects those workers who may be displaced due to the end of the cold war, but it also protects the workers and nearby communities by keeping the cleanup dollars focused on cleanup.

Since its inception, more than 37,000 workers at Department of Energy sites across the Nation have benefited from the worker transition program. In fact, since that time, Congress has spent over $650 million providing very generous severance packages to workers displaced from the former nuclear weapons production sites. Of this, it is estimated that at least $500 million have been taken from mission-related funds of the environmental management program to fund separation benefits to workers, all of whom are being displaced not because of a current change in defense mission but because of business and efficiency decisions of their employers. Further, an additional $168 million has been provided to communities surrounding former nuclear weapons production sites for economic development activities.

It's been 6 years since we won the cold war and ceased nuclear weapons production. Most of these production sites have moved on to new missions and to cleaning up the legacy waste. Most of those who worked during the production era left these sites long ago or are protected under a seniority system of employment.

This bill says that it is no longer reasonable or sustainable to provide extraordinary benefits, to those who do not meet the original intent of section 3161 of the 1993 Defense Authorization Act. The $61 million provided for worker and community transition is more than enough to fund all cold war warriors who still work for a current or former nuclear facility and who would like to voluntarily separate during the next fiscal year. Frankly, I believe it is time to move toward giving the contractors more autonomy—those companies who are cleaning up the environmental management sites should manage and right-size their own work force without Federal subsidies.

Additionally, I would tell you that this program has been plagued by mismanagement and by questionable practices. The General Accounting Office has reported that individuals received extraordinary severance packages, in some cases in excess of $90,000 per person. Further, many of the workers receiving Federal assistance were hired in the years after the end of the cold war. Finally, the program has been criticized for providing benefits to terminate positions that were later refilled or rehired at added cost to the Government.

As I said before, the Department of Energy has provided over $168 million in economic assistance to the local communities surrounding DOE defense nuclear sites. Not only do I

believe that this is not a proper allocation of Federal dollars, but I believe that these dollars have not yielded the desired results.

Take the Savannah River site in South Carolina as an example—3 years ago, the South Carolina Regional Diversification Initiative was set up as an economic development initiative to help offset layoffs at the former defense plant. According to newspaper report, only 34 jobs have been created with a Federal investment of $7 million. My understanding is that the majority of the money was spent on studies and administration. Not exactly the return on investment or track record that would justify additional Federal investmnent. However, very recently, when the local community leaders met with the Department of Energy, they were given another $4.6 million for this initiative.

It is time to fund this program within it's authorized and appropriate levels—to provide help to the true cold war warriors—but stop diverting the money away from cleanup of the environmental management sites. This money should be used to accelerate cleanup and get this show on the road.

Mr. FAZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would first like to congratulate the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO] for their work on essential parts of this bill that contribute to the national infrastructure and to vital concerns of ports and other infrastructure concerns in my region.

I would like to go back to something that was vigorously debated in a somewhat confusing manner during the original consideration of the bill, and that was the DeFazio-Fazio amendment process regarding Animas la Plata.

Besides confusing the pronunciation of our names, many Members were confused over exactly what they were voting on, and when I look at the report from the committee, I think it is not quite on target if one refers back to the debate and would like to make that point here today.

The key point in the debate made with the Fazio amendment to the DeFazio amendment was that we were funding a process, the Romer-Schoettler process, to go forward and come up with a new proposal, all sides having admitted that the original Animas La Plata project was not affordable and was not going to go forward in its entirety.

Yet the report urges that the Corps of Engineers or Bureau of Reclamation go ahead with great dispatch in terms of beginning parts which were proved under the Endangered Species Act should be constructed without delay. I think that contradicts the debate we had here on the floor. Later on it does mention the Romer-Schoettler process and working toward a compromise.

I think it would be a great mistake if construction went forward at this point in time when the emphasis in the debate, in the close vote we had here on the floor of the House, was, no, we are going to develop an alternative that is cost effective and environmentally responsible.

So I would like to suggest that perhaps the drafting of the report is such that there could be a problem in dealing with the Bureau of Reclamation and would want the Bureau to refer back to the debate and the vote rather than looking at the report language.

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

Mr. Speaker, I just wanted to simply read the language in the report. It says the conferees directed funds previously appropriated for the project and still available, part to be used for the project and advancement of a modified project from the process which meets the original intent of the settlement.

So I think what we are saying here is, we are not restricting prior appropriations, but we are looking for the modification of the project, and the money that has been prior appropriated would be available for that purpose.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GREEN].

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

Mr. GREEN. Mr. Speaker, like my colleagues on both sides of the aisle, I would like to rise today to thank both the chairman and ranking member, the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO], for their fairness and courtesy to many Members, and also to the only Texas Member on the Subcommittee on Energy and Water, my colleague, the gentleman from Texas, Mr. CHET EDWARDS, who was instrumental in helping this project begin this year.

The Port of Houston is so important to many levels, not only to the Houston region, but also to the State and outlining our Nation. More than 5,535 vessels navigate the channel. It is the eighth largest port in the world, and with this startup money for the 45-foot depth and the 520-feet widening, it is so important to be competitive in this day and time. In fact, yesterday's Journal of Commerce talked about the importance of ports being at least 45 feet in depth.

Again, I would like to thank the chairman and the ranking member and the staff working on this and appreciate the first money for the startup here, and we will be back again

Mr. FAZIO of California. Mr. Speaker, I yield such time as he may consume to another gentleman from Houston, TX, Mr. BENTSEN.

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

Mr. BENTSEN. Mr. Speaker, I thank my colleague from California, Mr. FAZIO for yielding this time to me.

First of all, let me tell my colleagues I rise in strong support of H.R. 2203, the fiscal year 1998 Energy and Water Appropriations conference report. I want to thank the chairman, the gentleman from Pennsylvania [Mr. MCDADE], the ranking member, the gentleman from California [Mr. FAZIO], as well as my colleague, the gentleman from Texas [Mr. EDWARDS], who has done a lot of work on behalf of the Harris County delegation.

H.R. 2203 includes vital funding for several flood control projects in the Houston, TX area. These projects include Sims, Brays, Clear Creek, Greens, and White Oak Bayous, as well as Hunting Bayous, and provided much needed protection for our communities.

I am most grateful for the committee's decision to fully fund the Sims Bayou project at $13 million in fiscal year 1998 which will allow for speeding up construction of this much needed project to improve flood protection for an extensively developed urban area along Sims Bayou in southern Harris County.

Additionally, I appreciate the committee's decision to fully fund the Harris County Flood Control District's efforts to carry out three flood control projects on Brays, Hunting, and White Oak Bayous that were authorized last year in Public Law 104–303, the Water Resources Development Act of 1996, for some language that my colleague, the gentleman from Texas [Mr. DELAY], and I had pursued.

This is a new direct grant program to the counties, and I appreciate the fact that the committee has specifically included in the bill the implementation of section 211(f)(6) in funding $2 million for the reimbursement to the Harris County Flood Control District for Brays Bayou. This is an innovative program that the Congress authorized last year, as I mentioned, and the fact that the committee is doing this, I believe, sends a message to the Corps of Engineers to follow through with the word of the bill and the language in that, and I appreciate the members of the subcommittee for doing that.

Mr. Speaker, I am also pleased that this legislation provides $20 million to begin construction to the Houston Ship Channel expansion project which was also authorized in the word of the bill.

What is particularly important about this is not the fact that it is more than what was in the original request or the Senate request, although that is important, but also what is important is that it directs the Corps to move forward and implement a project cooperation agreement for the entire project. Had that not been done, there was some question, based upon the administration's original request, whether or not both Houston and Galveston authorities would be included in that.

I appreciate the committee for doing that, and in addition, by putting in the funding level and working with the Corps of Engineers, they ensured that the project will meet the 4-year time line which is critical to its implementation in the economic basis.

Mr. FAZIO of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for his work on this bill and the committee's work.

I rise in support of H.R. 2203, making appropriations for energy and water development for fiscal year 1998.

This conference report provides funds for critical flood control and navigation projects in Contra Costa County and the San Francisco Bay area of California. Also included is $1.5 million to begin construction of fish screens for the Contra Costa Water District's intake at Rock Slough. The screens are needed to reduce the number of fish drawn into the system's pumping and storage facilities. Securing the funding is critical not only as part of fishery protection efforts but also to ensure that the district's Los Vaqueros Reservoir will be completed on schedule. I appreciate the committee's continued support for these projects.

I am particularly pleased that the conference report provides $85 million to fund the initial share of Federal participation in the bay-delta programs authorized last fall in the California Bay-Delta Environmental Enhancement and Water Security Act. Funding the bay-delta programs will allow us to begin a comprehensive effort to restore the many components of this huge area that have been damaged by human activity.

The bill also contains a prohibition on taking steps to build the San Luis drain, a huge canal that would convey contaminated agricultural waste water up to the Sacramento-San Joaquin Delta, where it would be discharged. I firmly believe that this drain should not be built, as it would allow the export of toxic pollution to the delta.

In addition, the bill contains $100,000 to begin studying the removal of underwater rock formations near the mouth of San Francisco Bay that threaten oil tankers and other deep-draft vessels. This funding will be used to assess the benefits of oil spill avoidance and improved navigation relative to the cost of the project.

I thank the conferees for their hard work on this legislation, and I urge my colleagues to support H.R. 2203.

Mr. FAZIO of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Mrs. TAUSCHER] for a colloquy.

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 2203. This spending bill makes a number of important commitments to improve our environment, and I want to also congratulate the gentleman from California [Mr. FAZIO] and the distinguished chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MCDADE], for their leadership in this effort.

Mr. Speaker, H.R. 2203 also includes language that will allow the Corps of Engineers to participate in projects that will improve aquatic ecosystems such as the San Francisco Bay delta.

I would ask the distinguished ranking Democrat to clarify my understanding that the conference committee agreement allows the Corps of Engineers to work with the East Bay Municipal Utility District and the State of California on this project.

Mr. FAZIO of California. Mr. Speaker, will the gentlewoman yield?

Mrs. TAUSCHER. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Speaker, I would be happy to answer the gentlewoman's inquiry. She is correct that the agreements permit the Corps of Engineers to participate at the site of the Penn Mine.

The conference agreement provides that the Corps of Engineers shall have $6 million to support eligible projects which include that Penn Mine site as well as others. I would encourage the Corps to make available necessary funds for this project.

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for his clarification on this important environmental issue.

Mr. FAZIO of California. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I just wanted to take this opportunity to express my support for the conference report on H.R. 2203, the Energy and Water Appropriations bill for fiscal year 1998.

While I would have preferred the version of H.R. 2203 that was passed by the House in July, this bill has much to be said for it. Not only does it keep spending within 1 percent of last year's level, but it helps address a longstanding inequity that the distinguished chairman of the Rules Committee reminded us of in a Dear Colleague distributed to all Members on August 28 of this year.

Attached to that Dear Colleague was a chart prepared by the Tax Foundation of Washington D.C. Entitled ''Federal Tax Burden by State,'' that chart compared all the taxes paid by each state to the federal government in 1996 to the total amount spend by Uncle Sam on those states in that year. Its figures are indeed interesting, reaffirming what those of us from the great state of Illinois have known for a long time. Our state continues to be one of the biggest of all donor states, only getting 73 cents back for every federal tax dollar it sent to Washington last year.

Mr. Speaker, according to the Tax Foundation's figures, only two other states in the country have a lower ratio of taxes paid to dollars returned than does Illinois. Therefore, it is important for a bill like this not to forget the needs of the Prairie State and this bill does not. Not only does the conference report on H.R. 2203 provide needed moneys for two projects in which I have a particular interest—the internationally recognized Des Plaines River Wetlands Demonstration Project [DPRWDP] and the Fox River Floodgate Installation Project [FRFIP]—but it also funds at least 10 other water-related projects that will benefit Chicago and some of the suburbs to the north and west. As a result, over $20 million will be coming back to the Chicago area this coming fiscal year that will be put to good use combatting the threat of flooding, promoting the preservation of wetlands, dealing with shoreline erosion and maintaining harbors.

With all the flooding the Chicagoland has suffered in recent years, this assistance could not come at a better time. That being the case, I want to express my particular thanks to the chairman of the Appropriations Committee, to the chairman of its Energy and Water Development Subcommittee, and to the conferees on H.R. 2203 for their support of such Chicago area projects as the Des Plaines River Wetlands Demonstration Project and the Fox River Floodgate Installation Project. Not only do I appreciate it but I am sure many others, who want to get a good return on the tax dollars they invest in our government, will as well.

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to personally congratulate Chairman JOE MCDADE and ranking member VIC FAZIO for crafting a bill that recognizes the vital energy and water needs of California while maintaining the needed funding levels required for the balanced budget agreement.

Despite fiscal constraints, my colleagues and I were able to secure funding for a variety of projects designed to help alleviate southern California's continual water problems including needed construction funding, flood control programs, beach erosion studies and financial support of operation and maintenance for navigation.

Mr. Speaker, I was very pleased to see that several projects that will greatly assist my constituents received adequate levels of funding. Key projects that directly impact my district include the Oceanside Harbor Maintenance and Operation Dredging program. Although it was not included in the President's budget request, we were able to secure $900,000 in funding for this important project. This project is seen as critical to the military, industrial and recreational communities that rely on Oceanside Harbor.

The Santa Ana River Mainstem Flood Control Project is another project that is of fundamental importance to the citizens of the 48th District and its surrounding communities. The funding provided will prove both important and essential for all three of my counties—Riverside, Orange and San Diego.

Mr. Speaker, let me once again commend the fine work of Chairman MCDADE and Mr. FAZIO for their fine work on the Energy and Water Appropriations Bill for FY 1998. Their hard work and dedication not only insured that critical projects received needed funding, but that they did so within the framework of a balanced budget.

Mr. LIPINSKI. Mr. Speaker, I rise in support of the Conference Report on the FY 1998 Energy and Water Development Appropriations bill. This legislation is very important in that it funds a number of vitally important flood control projects across the nation. I thank Chairman MCDADE, the ranking Democrat, Mr. FAZIO, and the other conferees on all the hard work they put into crafting this important of legislation. In particular, I would especially like to thank them for funding two Army Corps flood control projects in my district.

This legislation provides $250,000 for a feasibility study of Stoney Creek and $200,000 for a study of Tinley Creek. I strongly believe that this is a prudent allocation of federal funds. Funding the feasibility studies for these Army Corps projects is an important step in eliminating the flooding problems.

The flooding problems attributable to these creeks affect a number of communities in my district: Oak Lawn, Crestwood, Alsip, and the unincorporated Bluecrest subdivision of Worth Township. I have visited these communities in the aftermath of heavy rains and flooding, and I have seen firsthand the structural damages caused by the floods. It is estimated that average annual damages resulting from these floods total over one million dollars, and this does not even begin to take into account all of the heartache and grief experienced by the residents of the affected communities.

Mr. Speaker, I urge my colleagues to support this measure. We need to pass this important piece legislation to bring much needed funds for communities that live under the constant threat of floods.

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of the conference report and want to thank Chairman MCDADE and Ranking Member FAZIO for their hard work. I know they had a difficult task balancing hundreds of requests.

It is important to note the importance and priority the Congress has again placed on federal beach renourishment projects. As a member of the Coastal Caucus I believe it is critical that we pass this important legislation.

As the chairman is aware, we have experienced unprecedented erosion along the beaches in Brevard and Indian River counties in Florida. These beaches are not only important for our tourism industry, but they are home to the largest concentration of endangered sea turtle nests along our Nation's Atlantic coast. The failure to move forward with these beach renourishment efforts will continue erosion of this critical habitat.

Most of the erosion in Brevard County is directly attributable to the construction of the Canaveral Inlet by the Federal Government in the 1950's. Since that time homes and infrastructure that once stood 400 yards from the breaking waves are now at the water's edge. Indeed, study after study has shown that the inlet has acted as a barrier and has stopped sand from flowing to the beaches south of the inlet.

More than 300 residents of Brevard County whose property is in danger of falling into the Atlantic have filed suit against the federal government. This has the potential of costing the federal government hundreds of millions of dollars. The conference report before us moves forward with the Brevard County Storm Damage Prevention project and will help the U.S. government avoid several hundred million dollars in liability.

The project doesn't propose putting the beach back like it was. It would create a 50 foot buffer to protect properties and rectify some of the damage caused by the federal inlet.

Additionally, I am pleased that the Committee has included $500,000 that I requested for environmental restoration efforts along the Indian River Lagoon. This funding will help us move forward with the C–1 rediversion project which will help us reduce the flow of fresh water and sediment into this Estuary of National Significance. This will improve the health of the lagoon and benefit the manatee and the lagoon aquiculture industry.

I thank the Chairman and the conferees for their support of these projects.

Mrs. CLAYTON. Mr. Speaker, I rise in support of the Conference Report. On June 30 of this year, I toured the State Port Authority at Wilmington, NC with local and federal elected officials. Congressman VIC FAZIO joined us, and I thank him for that.

The Port of Wilmington has historically served as one of the greatest sources of revenue along the East Coast. While generating over $300 million in state and local taxes, the port creates over 80,000 jobs.

Along with North Carolina, many of the landlocked states of the South East have used the Port of Wilmington, and the Cape Fear River, as a conduit to the Atlantic Ocean and the rest of the world. The Cape Fear River has always been a vital resource for American overseas shipping.

The maximum water level is at an approximate depth of 38 feet, which is too shallow to accommodate the girth and weight of the larger commercial shipping vessels, which can carry more than 100 tons of goods, the kind of which are now being used. There is a plan to increase the draft space by four feet. This would allow the new, larger, vessels to use the Cape Fear River, as well as the Port of Wilmington, at an extremely faster rate than at the present time.

In the past, there have been three separate plans to improve the conditions of the Cape Fear River: widening the channel; deepening the river upstream of the Cape Fear Memorial Bridge; deepening the remainder of the river. The three proposals were considered individually, thereby financed separately. As distinct and separate projects, they would be far more costly and time consuming than necessary. Consolidating these three proposals into a single plan, results in the entire process costing considerably less time and money, and could be enacted with a heightened level of efficiency.

The Port of Wilmington is at a prime location for the overseas shipping of goods. Along with accommodating special purpose subzones, Wilmington can lower, defer, or avoid import duties. There is a 117,000 square foot heated on-dock warehouse, which is equipped with portable fumigation tents. There is also nearly one-half million square feet of warehouse space dedicated to forest products.

The larger vessels that would be permitted to use the Cape Fear River, as a result of the deepening and widening of the channel, possess a far greater load capacity. The increased speed and efficiency with which the new ships could travel the Cape Fear River would be a strong benefit for all manufacturers, transporters, distributors, and purchasers of any of the goods shipped on vessels coming to or from the Port of Wilmington.

Following the tour, as part of the Energy and Water Development Appropriations Bill, the Subcommittee on Energy and Water did pass a provision that embraces the consolidation, funds the first year effort and commits to funding the full project.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2203, the Energy and Water Development Appropriations for fiscal year 1998. I support this bill mainly because it provides $413 million which is (39 percent) more for the Army Corps of Engineers construction programs than requested by the Administration. The Administration originally requested $9.5 million for the construction of the Sims Bayou Project in Houston, Texas.

The Subcommittee on Energy and Water Development specifically earmarked an additional $3.5 Million bringing the total funding for the project to $13 Million.

Mr. Speaker, the Sims Bayou Project is a project that stretches through my district. Over the course of recent years, the Sims Bayou has seen massive amounts of flooding. Citizens in my congressional district, have been flooded out of their homes, and their lives have been disrupted. In 1994, 759 homes were flooded as a result of the overflow from the Sims Bayou. That is 759 families that were forced to leave their homes.

I mainly support the conference report, Mr. Speaker, because the subcommittee has earmarked in this bill $13 million for the construction and improvement of the Sims Bayou project that will soon be underway by the Army Corps of Engineers. I would like to thank the Army Corps of Engineers for their cooperation in bringing relief to the people of the 18th Congressional District in order to avoid dangerous flooding. The Subcommittee on Energy and Water Development added an additional $3.5 million for the construction of this Sims Bayou project and it remains in this conference report. I am quite certain, Mr. Speaker, that this project would not have been able to go forward if this additional money would not have been granted by the Subcommittee. For that I have to thank Chairman McDade, Ranking Member Fazio, and my friends and colleagues Chet Edwards, and Mike Parker who sit on the Appropriations Committee.

However, Mr. Speaker, I would like to call on the Army Corps of Engineers to do everything that they can to accelerate the completion of this project. The project will now extend to Martin Luther King and Airport Boulevards, and Mykaw to Cullen Boulevard. This is flooding that can be remedied and the project must be completed before the expected date of 2006. While I applaud the Army Corps of Engineers for their cooperation, this is unacceptable for the people in my congressional district who are suffering. They need relief and I know that they can not wait until the expected completion date of 2006. This must be done and I will work with the Army Corps of Engineers and local officials to ensure that this is done. I urge my colleagues to vote yes on this conference report.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this important legislation and want to take this opportunity to thank Chairman MCDADE for his continued support for the Ramapo River at Oakland Flood project.

This has been a long and hard-fought battle. And it has been a cooperative effort with Mayor Peter Kendall and the Oakland Council and State Senator McNamara and Assemblymen Felice and Russo all working effectively. With the funds included in this bill, we can finally make this project a reality for my constituents in Oakland. This is government doing what government should do—putting taxpayers to work helping real people with real problems.

Flooding along the Ramapo River has occurred 15 times in the past 24 years. The 330 families that live along the 3.3-mile stretch cannot continue to endure the repeated hardship and personal turmoil that the flood waters bring.

The principal problems along the Ramapo River are flooding caused by the backwater effect produced by the Pompton Lake Dam, the hydraulic constrictions produced by bridges crossing the river, and insufficient channel capacity.

The project is now ready to move into the construction stage. The overall cost of the project through construction is estimated at $12.2 million. This cost is shared by the Federal Government, 75 percent, and the State, 25 percent.

The $2.5 million included in this bill will allow construction to advance by 1 year and substantially complete the first piece of the project. The completion of the first piece, the channel widening, would provide immediate flood reduction benefits to Oakland.

Flood protection is about more than money. The emotional price of being forced from your home by raging flood waters and returning only to find your most prized possessions ruined with mud and water goes far beyond the economic price.

On behalf of those families who have endured these floods I support this appropriation and thank Chairman MCDADE and Congressman FRELINGHUYSEN.

Mr. SHUSTER. Mr. Speaker, I rise in support of H.R. 2203, the Energy and Water Development Appropriations Act for fiscal year 1998. This bill provides needed funding for the Nation's water resources infrastructure through such agencies as the Army Corps of Engineers.

H.R. 2203 includes funding for many of the critically needed Flood Control and Navigation Infrastructure projects that were contained in the Water Resources Development Act of 1996.

I would like to thank my colleague from Pennsylvania, Mr. MCDADE, for his leadership and cooperation and for clarifying several provisions in the Senate bill within the jurisdiction of the Transportation and Infrastructure Committee. While in a perfect world there would be no authorizing language at all in an appropriations bill, most of the authorizing provisions contained in this legislation have taken into account concerns of the authorizing committee. For example, the conferees have significantly limited the scope of the Senate provision regarding environmental infrastructure to take our concerns into account.

The conference report also includes provisions on Devils Lake, ND, addressing the emergency flooding conditions that continue to threaten citizens, property and the environment. I want to assure the North Dakota delegation and Governor Schafer, who have worked tirelessly on this issue, that we will continue to look for appropriate, long-term solutions that help to stabilize the lake levels and balance the concerns of citizens within and beyond the watershed.

I would also like to address provisions relating to the Tennessee Valley Authority. The final compromise language reflects the views of many that TVA must change. As chairman of the authorizing committee, I expect we will continue our review of TVA's appropriated and nonappropriated programs.

On the transfer of the formerly Utilized Remedial Action Program [FUSRAP] to the Army Corps of Engineers, I would simply note that it is not our intent—and I have been assured by the chairman of the House Energy and Water Development Subcommittee that it is not his intent—to affect the jurisdiction of the authorizing committee. For example, the Transportation and Infrastructure Committee will obviously continue to exercise jurisdiction over Corps of Engineers civil works programs, including its support for others program that involves activities to clean up hazardous, toxic, and radioactive wastes. I would also note that the statement of managers provides that "overall program management, schedule and resource priority setting and principal point of contact responsibilities for FUSRAP are to be handled as part of, and integrally with, the overall civil works program of the corps."

H.R. 2203 is a good bill and I urge my colleagues to support it.

□ 1215

Mr. MCDADE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore [Mr. NEY]. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 17, not voting 12, as follows:

[Roll No 468]

YEAS—404

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—17

Campbell
Chenoweth
Deal
Ensign
Gibbons
Hoekstra
Kleczka
Klug
Neumann
Paul
Petri
Ramstad
Royce
Sanford
Sensenbrenner
Shays
Sununu

NOT VOTING—12

Brown (CA)
Clayton
Cox
Dellums
English
Gonzalez
Pallone
Pickett
Rothman
Saxton
Schiff
Smith (OR)

□ 1235

Mr. KLUG changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROTHMAN. Mr. Speaker, on rollcall vote No. 468, I was unavoidably detained in New Jersey attending funeral services for Florence Rothman. Had I been present, I would have voted ''yes.''

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I rise for the purpose of explaining my absence on the last vote. Mr. Speaker, I was unavoidably absent during the last rollcall vote No. 467, the passage of the rule on the Energy and Water Appropriations Conference Report. I was in a lecture with a group of foreign military officers who are attending the naval postgraduate school in my district, and I was unable to return to the Chamber in time for the vote. Had I been present I would have voted ''aye.''

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 255 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 255

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Banking and Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California [Mr. DREIER] is recognized for one hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very hard-working friend, the gentleman from South Boston, Massachusetts [Mr. MOAKLEY], who is carrying his second rule of the day for the minority, and I am sure he will do so very ably. All time that I will be yielding will be for debate purposes only.

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

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. DREIER. Mr. Speaker, this rule provides for consideration of H.R. 1370, legislation to reauthorize the U.S. Export-Import Bank, an organization often referred to as the Eximbank. The Eximbank provides the most significant direct U.S. government support for American exporters, a subsidized loan rate to some foreign entities that buy American-made products.

This is a modified closed rule providing 1 hour of general debate, divided equally between the chairman and ranking minority member of the Committee on Banking and Financial Services. The rule provides for consideration of the committee amendment in the nature of a substitute as an original bill for purpose of amendment under the 5-minute rule. The rule waives points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI, relating to germaneness.

In order to provide for orderly consideration of this bipartisan legislation, the rule makes in order only those amendments printed in the Committee on Rules report. However, I must note, Mr. Speaker, that the Committee on Rules made in order every germane amendment that was submitted to our committee in a timely fashion.

The amendments must be offered in the order printed in the report by the Member designated, shall be considered as read, shall be debatable for the time specified, shall not be subject to amendment, and shall not be subject to a division of the question in the House or the Committee of the Whole.

The rule also grants the authority to the chairman of the Committee of the Whole to postpone recorded votes on amendments and to reduce the voting time on amendments to 5 minutes, provided that the first vote in a series is not less than 15 minutes. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, in requesting a rule for consideration of this legislation, the chairman and ranking member of the Committee on Banking and Financial Services presented a unified front in support of this export financing organization, praising both the goals and operations of the Eximbank. The charter of the Eximbank expires at the end of this year, making action necessary to avoid a very disruptive break in its operations.

Many of my colleagues know that I have been a strong and vocal advocate for unfettered free trade. At the same time, I am not fond of export subsidies. I believe that the best thing for our economy and the economies of our trading partners around the world would be an end to government trade subsidy programs like the Eximbank.

However, Mr. Speaker, I do not believe in unilateral disarmament. The United States should try to eliminate export subsidies through a multilateral agreement, the way we have tried to end shipbuilding subsidies, for example. The global trading system would be better off without the distorting effects of subsidies.

I believe the American taxpayers should know that the Eximbank has been involved in just such efforts. The bank has helped lead U.S. efforts within the Organization for Economic Cooperation and Development, the [OECD] to reach agreement limiting the export subsidies of developed countries.

The Eximbank's ''tied aid war chest'' has been used successfully to bring down this trade-distorting practice by 75 percent since 1991.

□ 1245

Mr. Speaker, I believe the best near-term trade policy is served by enacting H.R. 1370 and extending the charter of the Eximbank through September 30, 2001. Currently, the bank helps finance $15 billion in U.S. exports each year.

We must be clear about the fact that the Eximbank does not entail U.S. taxpayers buying products that are then given away overseas. This is not, I underscore again, this is not, Mr. Speaker, foreign aid. Instead, this agency provides a slightly subsidized loan rate that permits overseas buyers to purchase American-made products. They buy the products, and they pay for the products.

While the Eximbank is only involved in 2 percent of total United States sales abroad, it is critical to sales in certain big-ticket capital projects, particularly in developing countries in Asia, Latin America, Eastern Europe, and the former Soviet Union.

Again, Mr. Speaker, I must repeat, while the nominal recipient of the slightly subsidized loan is a foreign company or government entity, that entity buys and pays for the American-made product. The American workers are the real beneficiaries, winning the jobs that go along with these major projects.

Mr. Speaker, the Committee on Rules has made in order the seven germane amendments that were timely submitted to the committee, four offered by the minority, the Democrats, and three from our side of the aisle, the Republicans.

While I will not go through each amendment, I would like to encourage the House to avoid trying to legislate foreign policy priorities on the backs of American export workers. Kicking American companies and their American workers out of legitimate export markets in the name of pet foreign policy goals strikes a blow against the effectiveness of this job protection tool. The only winners in such situations are the foreign competitors who will step in and fill the void left by American companies.

Mr. Speaker, this rule deserves bipartisan support and this bill deserves bipartisan support. I look forward to the House working its will on the amendments submitted to the Committee on Rules with the hope that the final product is something that can be signed into law with the purpose of encouraging job creation in this country.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague and dear friend, the gentleman from California [Mr. DREIER], for yielding me the customary half hour.

Mr. Speaker, I rise in support of this rule. Although this bill normally comes to the floor under the suspension calendar, our Republican colleagues have decided to bring it to the floor this year with a rule.

Mr. Speaker, this bill passes this Congress every 2 years with strong bipartisan support. This year it passed the Committee on Banking and Financial Services by voice vote. It is a good bill. It is a noncontroversial bill. But in order to increase debate time on foreign policy, which has nothing to do with this bill, my Republican colleagues are bringing this noncontroversial bill to the floor with a rule and endangering the bank's authority to issue new export credits which expires tomorrow.

Mr. Speaker, the Export-Import Bank levels the playing field for American companies. It helps American companies overcome export credits from other countries and helps make American goods be affordable and accessible in these other countries. It is the primary way American businesses get credit to sell their goods overseas. Mr. Speaker, that creates jobs here, here at home.

American companies trying to do business overseas have a very hard time getting insurance and export credit in other countries. Foreign credit export agencies subsidize goods and undercut American competitors.

Mr. Speaker, even with the Export-Import Bank, we still do less for our businesses than any other of our major competitors. We provide export support only to 1.5 percent of our total exports. France provides the same support to 20 percent of their exports, and Japan provides support for 48 percent of the goods they export. In other words, Mr. Speaker, other countries have a lot easier time picking up business here than we do competing in their countries.

In New England, our manufacturing capacity has been declining for years. When manufacturing capacity declines, so do manufacturing jobs. Businesses move their operations overseas to take advantage of lower labor costs and overhead, and American workers are left holding the pink slips.

The Export-Import Bank enables us to convince companies that they can stay here, hire well-trained American workers, and develop competitive products. Last year, businesses in my district got $116 million in assistance from the Export-Import Bank. Some of those businesses include Horizon House Publications, Bird Machine Co., Harding and Smith Corp., which makes control system panels, Sea Beam Defense Contractors, Stone and Webster Corp., Engineering Contractors, and State Street Bank, and many, many others.

Mr. Speaker, every single employee at every single one of those companies who still has a job here in this country joins me, they join me in supporting the Export-Import Bank. When these companies do well, we all do well. Their success rate creates jobs here in the United States. I urge my colleagues to support this rule.

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

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Lincoln, NE, Mr. BERUTER, chairman of the Subcommittee on Asia and the Pacific, who will have some very, very worthy advice on the amendments that we will be considering. I hope my colleagues will listen to that.

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

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the rule and of H.R. 1370, a bill to reauthorize the Export-Import Bank for 4 years. I thank the distinguished gentleman from California for yielding me this time.

The Export-Import Bank is a crucial export promotion agency which provides insurance to lenders to facilitate the purchase of U.S. products abroad; in other words, to expand our export base. I appreciated the comments of the distinguished gentleman from Massachusetts and the gentleman from California [Mr. DREIER].

Opponents have sometimes labeled the Export-Import Bank as a corporate giveaway. Actually, the truth of the matter is that the Export-Import Bank facilitates the purchase of U.S. products abroad, which in turn provides jobs in the United States.

This Member doubts you will find any workers, even in one of the largest U.S. companies such as Boeing, who feel they are receiving welfare payments when they receive their paychecks at the end of a long week building state-of-the-art aircraft.

Export-Import Bank is not a giveaway program. It is a jobs and trade program. As long as our competitors continue to provide export assistance, as the gentleman from Massachusetts just indicated, and in great quantities beyond what we provide, we need to have this legislation and this agency to keep us competitive.

This Member contends that those who attack the Export-Import Bank as a wasteful government giveaway with little impact on international trade must really be living in a vacuum. If we compare the levels of support by our trade competitors, we will see that the United States lags far behind Japan, France, Canada, Germany, and the United Kingdom.

U.S. companies have realized the importance of operating in a global economy and have made it clear that if the United States is not willing to help them to play ball by providing export promotion, they will have no choice but to take their production facilities abroad and thus their jobs and tax dollars overseas as well.

As an example, one must only consider the recent decision by GE and Voith Hydro to seek German and Canadian export assistance to facilitate the purchase of equipment to be used in the Three Gorges Dam project in China. The Clinton administration has determined that Export-Import Bank participation in the Three Gorges project should not be available.

Does that mean the project will not go ahead? No. Does it mean that U.S. firms will not participate? No. It simply means that foreign subsidiaries of U.S. companies will receive the assistance overseas, and they will build their products there. And they will spend their money there in other countries, and U.S. workers do not have jobs here. We must not unilaterally disarm ourselves in this important global economy.

Therefore, this Member urges his colleagues to set aside the politically expedient rhetoric of attacking Export-Import Bank as corporate welfare and wake up to the fact that without the Export-Import Bank, the United States is unilaterally disarming in the global trade cold war. We must support U.S. products overseas.

I urge my colleagues to support the rule and to support the reauthorization of this 4-year extension of the Export-Import Bank's life and the LaFalce amendment which will soon be subject

to debate as well in the Committee of the Whole House.

The LaFalce amendment, for example, will finally rename the agency to indicate what it does, and that is to make it the U.S. export agency, because this agency has nothing in the world to do with imports. This is an export arm of the American economy and of the American Government.

I thank my colleague for yielding me this time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman for yielding, and I would like to associate myself with the remarks of the gentleman from California [Mr. DREIER] and the gentleman from Massachusetts [Mr. MOAKLEY], the ranking member.

Some of us have some concerns with section 9, and the administration has expressed such, which requires the Bank to establish procedures to ensure that firms committed to job creation and reinvestment in the United States be given preference for receiving financial assistance.

The Bank is dedicated to the preservation and expansion of the U.S. jobs. In pursuing this goal, the Bank provides guarantees and loans to creditworthy foreign buyers of U.S. goods. Therefore, the bank evaluates foreign buyers, not U.S. firms. Because it is the foreign buyer that chooses the exporting company, the Bank is not in a position to decide if the U.S. firm has made the commitment called for in the bill.

Also by way of amendment, I am hopeful, and I believe the administration would be as well, of addressing the concerns expressed in section 5 which would have the effects of statutorily selecting the Bank's ethics official. This selection would undermine the effectiveness of the executive branch ethics programs by eliminating one of its basic requirements; that is, that the agency head is ultimately responsible for the conduct of the agency's employees.

I am just back, as a member of the Committee on International Relations, from a meeting of the Organization for Security and Cooperation in Europe. The Eximbank is most active in the big emerging markets such as Asia, Latin America, Eastern Europe, and the Newly Independent States. I call on my colleagues here to be mindful that places like Uzbekistan, Tajikistan, or a number of the Newly Independent States in the Transcaucasus would benefit from the Eximbank, and what we would and could do by not supporting it would be to unilaterally disarm and allow our competitors free access to emerging markets.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Syracuse, NY [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank my friend from California for yielding me the time.

I would also like to thank our majority leader, the gentleman from Texas [Mr. ARMEY], for allowing this bill to get to the floor. It is very timely. This legislation, the reauthorization expires today. That would be a real shame, and it would cause great difficulty for many American corporations and American workers.

I speak in favor of the rule and the bill. The Export-Import Bank was established in 1934 and requires periodic rechartering by the Congress. As I said, today the bill, the reauthorization, expires so we have to act on it quickly. This event would be unprecedented in the Bank's 64-year history and extremely harmful to the competitiveness of U.S. exports. The export authority, export financing provides direct loans, loan guarantees, and insurance which enables American exporters to make creditworthy sales when other sources of financing are unavailable. As my colleague from Florida mentioned, the competitive factor is vital in large emerging areas such as Asia, Latin America, and the Newly Independent States of Eastern and central Europe.

We feel the Export Bank represents the best kind of performance-based Federal program in which modest resources enable American businesses to compete for otherwise lost markets. I urge my colleagues to support this legislation, to reject all weakening amendments. This is a job creator.

□ 1300

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time. Later on in the course of the debate I will be talking about why I will support this legislation today, but let me just deal with some of the issues that my friends on the other side have raised which we should all be aware of when we talk about the Export-Import Bank.

The fundamental issue is whether working families in this country, who for many years have seen a decline in their real wages, people are working longer hours and are earning less, should be putting tens of millions of dollars in helping large multinational corporations who over the last 15 years have laid off hundreds of thousands of American workers. That is an issue we have to focus on.

The Boeing Co., which is the major recipient of this program, has laid off over 52,000 workers between 1990 and 1996. General Electric, which is taking jobs all over the world, hiring people at 50 cents an hour, laid off 153,000 workers from 1975 to 1995. AT&T laid off 127,000 workers. Are these the companies that the middle class taxpayers of this country should be supporting? I think there are real questions about that.

Now, some of my friends say, well, we need a level playing field. They are doing it in Europe and they are doing it in Japan. And there is truth to that argument. But there is another side to that story, and that is that corporations in Japan and corporations in Europe have a different ethic in many ways. Their systems are different.

In Europe they have a national health care system guaranteeing health care to all people. In Europe, German workers make 25 percent more than manufacturing workers do in the United States of America. In Europe, in many of those countries college education is free, not $25,000 or $30,000 a year. In many of those countries corporations pay significantly more in taxes than do companies in this country pay.

So what we have is corporations are coming in here and saying, help us with Exim programs, we need some help, but of course we want to pay less in taxes. We want to pay our workers lower wages. We want to move our jobs to Mexico or to China, but we really would like this form of corporate welfare.

Within the Committee on Banking and Financial Services I have successfully put in an amendment which begins to address some of these problems. Let me be very clear. If that amendment is taken out in conference committee, I will lead the effort in this body to defeat the Exim reauthorization. With the amendment, I think we will make some progress in saying that the companies that we are supporting should be companies who are reinvesting in America, who are trying to create jobs in America, and are not taking our jobs to China or Mexico.

Mr. DREIER. Mr. Speaker, I yield 6 minutes to the gentleman from Surfside Beach, TX [Mr. PAUL], who is a member of the Committee on Banking and Financial Services and joins me as an outspoken proponent of unfettered free trade.

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

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate the characterization of the benefits from the Export-Import Bank as being export subsidies because we are talking about subsidies.

Generally speaking, we on this side of the aisle are against subsidies, especially if the subsidies are for the poor people. I just suggest we should question whether we should oppose subsidies for the rich people as well.

So I rise in support of the rule. There could be a better rule but, under the circumstance, I support the rule but I do not support the legislation. There are very good economic and there are very good moral reasons why programs like this should not even exist.

I do want to take a moment to talk about something else I think is very important. Sometimes I think if one takes themselves too seriously around here one would become depressed, and I try very hard not to be depressed. But

I found something in the committee report that I think is very, very interesting.

We have a House rule that says that in the committee report on legislation, when it comes up, we have to explain which part of the Constitution justifies what we do here. Of course, there is legislation that is proposed that if we pass the legislation it would be the law and we would have to answer to that antiquated document, the Constitution. I happen to be so old-fashioned as to believe that if we were all as serious about the Constitution, all we would have to do is vote the Constitution and those convictions each day and we would not need rules or laws.

But nevertheless I think it is interesting to note exactly where the constitutional authority comes from for the Export-Import Bank. Of course, the old standby is the general welfare clause. We do this for the general welfare of the people. But if we think about it, we are using taxpayers' money, we are using subsidized interest rates, we are benefiting certain companies, and we do benefit the foreign recipients and many times these are foreign governments, so they are not the general welfare. If it is a cost to the taxpayer, we are doing this at a penalty of the general welfare, not to the benefit of the general welfare.

This is a wastebasket used especially in the 20th century as a justification for doing almost anything in the Congress. But then the justification goes on, and I find this even more fascinating. Of course, the other justification is the power to regulate commerce.

Well, regulating commerce between the States, actually the commerce clause was written to deregulate and make sure there were no impediments against trade, so we cannot under the Constitution regulate trade. But that does not say subsidize certain people at the expense of others. So that was a giant leap in the 20th century where the regulation of commerce permits us to do almost anything.

It certainly rejects the whole notion and challenges the whole concept of the doctrine of enumerated powers. So we either have a Constitution where there is a doctrine of enumerated powers or we do not. The document is very clear. It delegates powers. The powers are very limited and they are numbered. They are enumerated.

But today, if we casually look at the welfare clause, and if we casually look at the regulatory clause on commerce, we here in the Congress, under that understanding, we can do just about anything. And what happens? We do just about anything. And that is why our Government is so big and our regulatory bodies are so huge and we have tens of thousands of pages of regulations, because we have so little respect for the document that we should be guided by.

But there is another justification, according to the committee report, as to why we should and are permitted to pass legislation like the Export-Import Bank. Now, this one has to catch somebody's interest and it has to be slightly humorous to somebody other than myself.

In addition, the power to coin money and regulate its value gives us the justification to give subsidies to big corporations, to benefit companies overseas, to take credit from one group and give it to another, and to steal the money from the people through an oppressive tax system in order to provide these subsidies. And yet the justification is to coin money?

The Constitution still says that all we can do is use gold and silver as legal tender. Since we do not do that, we should have changed the Constitution. We should do one or the other. But to use the coinage clause to extend credit is a stretch beyond belief. It says, though, that the courts have broadly construed this to allow Federal regulation, the provision of credit, to provide credit.

Well, this is exactly opposite of what the founders said and exactly opposite of one of the major reasons why we had the Constitutional Convention. This power that they take through the coinage clause in order to extend credit is exactly opposite of the provision in the 1792 Coinage Act, which says we have to protect against counterfeiting, and anybody who would be so bold as to debase the currency and ruin the value of the money, there was a death penalty mandated.

But here we casually give to our agencies of government this authority under the coinage clause to provide credit. Credit is nothing more than the dilution of the value of money. And believe me, long term, this is detrimental.

Later on in the general debate, I would like to address the economic issues as well.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, if this was an ideological debate or an attempt at evolving a philosophy for the operation of the globe, we might want to discuss, in a theoretical sense, how government got to this point and where government should go. But this is a very practical life lesson for survival we are involved in.

The United States of America does very well in international trade. We have some very tough competitors. And, frankly, this is one of the few tools we have to prevent those international competitors from just rigging the system against American workers. We can talk about American companies, and sometimes there are differences in the interests of the company and the workers, but in this case the workers' and the companies' interests are joined. If we do not sell the product, that company loses but the workers are unemployed.

When we look at large capital areas, for a while the French, the Japanese, and others were simply stealing markets as the American trade representatives and American financial institutions were asleep at the switch. What we had time and time again was the Americans making a better product at a better price, but the French came in with 1-percent financing, or the Germans came in with no-percent financing, or the Japanese gave a kicker to begin the program.

Well, over the last decade we have started responding. As a result of that, we have brought back market share to this country, and that has indeed helped companies. It has helped the strength of the American dollar, I would say to my friend from Texas, and it has helped American workers. It is not just large companies, although oftentimes we need to use the threat of Eximbank financing to back off other countries trying to take away American projects by subsidized financing.

It is small companies as well. In Thompson, CT, Neumann Tool, a small family-held company, has been helped by Eximbank. Companies slightly larger, but still relatively new companies that are in international trade, like Gerber Garment and Technologies in Tolland, CT, they have been helped when they were facing partnerships between governments and corporations in other countries.

If we could stop all the other countries from subsidizing interest rates and financing around the world, we could talk about ending these programs. But unless we want to give away major markets to Asia and Europe, then we need this tool to protect American employment. That is what I see this program as.

What happens in the headlines is that we get ''Eximbank Finances Airplane Sale.'' What we really get are workers in America being able to compete internationally because they are not disadvantaged by a world that used to exist, where only the other side had some financing institutions to help save jobs.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Langley, WA [Mr. METCALF], a member of the Subcommittee on Domestic and International Monetary Policy of the Committee on Banking and Financial Services.

Mr. METCALF. Mr. Speaker, the Boeing Co. was mentioned by a previous speaker. By the way, right now Boeing Co., in my district and in my State, is hiring workers as fast they can right at this moment.

To get to the Export-Import Bank, it is one of the most important tools that we have to help the United States compete in the international marketplace. For more than 60 years, Exim has supported more than $300 billion in U.S. exports, and has more than met its primary goal of preserving and creating jobs in the United States and working to level the playing field against aggressive subsidized foreign competition.

The facts show that current accusations leveled against Exim by its opponents are unfounded. Exim creates jobs. One-fourth of the new net jobs created since 1992 came from export growth. During the last 5 years, Exim financing supported jobs for nearly 1 million Americans. Exim helps United States companies compete against subsidized foreign competition.

Japan and France currently finance 32.4 and 18.4 percent of their exports respectively. By comparison, the United States finances 3 percent of its exports. Eliminating Exim would result in lost jobs to American workers and lost market share to American companies.

Exim has a great return for the taxpayer. For every dollar appropriated to Exim the bank returned approximately $20 to $25 worth of exports. Exim programs do not just favor big business; Exim plays an important role in reaching small businesses interested in exporting. Last year 81 percent of Exim's transactions were with small business.

□ 1315

Exim programs do not create an unhealthy risk for the taxpayer. Since its creation, Exim has maintained a strong and healthy portfolio with a loan-loss ratio of 1.9 percent. The loss ratios of commercial banks average around 6 percent to foreign governments.

In addition, Exim has more than an adequate reserve of $6.7 billion to protect the taxpayer in the event of any unforeseeable loss. We should reauthorize Exim today to preserve American jobs.

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

Mr. DREIER. Mr. Speaker, I would simply close by saying that I urge strong support of this rule and the bill.

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

The SPEAKER pro tempore (Mr. PEASE). Without objection, the previous question is ordered on the resolution.

The question is on the resolution.

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

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] objects to ordering the previous question.

The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 423, nays 3, not voting 7, as follows:

[Roll No. 469]

YEAS—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
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Jackson (IL)
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Johnson (CT)
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Johnson, E. B.
Johnson, Sam
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Lewis (CA)
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Pascrell
Pastor
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Poshard
Price (NC)
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Ros-Lehtinen
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Roukema
Roybal-Allard
Royce
Rush
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Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
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Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
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Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—3

DeFazio
McKinney
Taylor (MS)

NOT VOTING—7

Gonzalez
Hansen
Moran (VA)
Nadler
Pallone
Saxton
Schiff

□ 1333

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

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SAXTON. Mr. Speaker, due to a memorial service in New Jersey for the airmen from McGuire Air Force Base who were killed off the coast of Namibia, I was unable to make rollcall votes 465, 466, 467, 468, and 469. Had I been present I would have voted ''nay'' on vote No. 465, ''yea'' on vote No. 466, and ''yea'' on votes Nos. 467, 468, 469.

The SPEAKER pro tempore. Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1370.

The Chair designates the gentleman from California [Mr. CALVERT] as the Chairman of the Committee of the Whole and requests the gentleman from Indiana [Mr. PEASE] to assume the chair temporarily.

□ 1336

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, with Mr. Pease (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE] each will control 30 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, the Committee meets today to consider the bill, H.R. 1370, legislation to reauthorize the Export-Import Bank of the United States, Eximbank, as it is known, for an additional 4 years. The bill, as amended, was favorably reported by the Committee on Banking and Financial Services by voice vote to the House of Representatives on July 9 with a report on this bill, Report No. 105–224, being filed on July 31, 1997. Without timely reauthorization, Eximbank will have to shut down its operations at the end of this fiscal year, literally less than a day away.

Briefly, H.R. 1370 provides for the following:

First, a 4-year renewal of Eximbank's charter through September 30, 2001;

Second, an extension of the tied aid credit fund authority;

Third, an extension of the authority for providing financing for the export of nonlethal defense articles;

Fourth, a clarification of the President's authority to prevent bank financing based on national interest concerns;

Fifth, the creation of an Assistant General Counsel for Administration position;

Sixth, authorization for the establishment of an advisory committee to assist the bank in facilitating United States exports to sub-Saharan Africa;

Seventh, a requirement that two labor representatives be appointed to the Bank's existing advisory committee;

Eighth, a requirement that the Bank's chairman design an outreach program for companies that have never used its services;

Ninth, the establishment of regulations and procedures as appropriate to ensure that when the Bank is making a determination as among firms that receive assistance, that preference be given to those firms that have shown a commitment to reinvestment and job creation in the United States.

Not every Member may be familiar with the work of Eximbank, so let me clarify what the Bank is and what it is not. Eximbank is an independent Federal agency established in 1934 to provide export financing for U.S. businesses. It has the twofold purpose of neutralizing an aggressive financing by foreign export credit agencies and to furnish export credit financing when private financing is unavailable and only when the Bank has a reasonable assurance of repayment.

Eximbank is not a foreign policy agency. Eximbank is not a development agency. The Bank's narrow purpose is to create jobs in the United States by promoting exports abroad.

Why do we need Eximbank?

Largely because many foreign governments provide official financing to their countries' exporters.

Although many of us would like to reduce or eliminate export credit subsidies, it is clear that without Eximbank the United States would have no leverage to help bring more market discipline to the rules governing international trade finance.

Likewise, American exporters would be hindered in their efforts to establish market presence in developing countries lacking full and easy access to private sources of finance.

While American workers and companies have made enormous strides to compete in the global economy, they cannot compete and win against Government-supported foreign competition. We need Eximbank to deter the distorting tied aid and other forms of economic pressure used by some of our trading partners. We also need Eximbank to help secure the necessary financing that will enable our dynamic small businesses to export their goods and services to the broader global market.

American firms will simply not thrive at home unless they take full advantage of the tremendous opportunities abroad. Today, 96 percent of U.S. firms' potential customers are outside U.S. borders, and key developing markets alone will account for almost half of the world's market by the year 2010. These markets are already our country's best economic opportunity, with developing countries already accounting for 67 percent of world import growth.

This body and the American people should have no illusions about the intensity of commercial competition for export contracts in emerging markets, competition that frequently hinges on the terms of export financing. The simple fact of the matter is that without Eximbank, U.S. exporters would lose contracts in important developing countries to companies in Japan, France, and Germany that receive trade finance from their Government-supported export credit agencies. Moreover, in critical technology, such as aerospace, power generation, and telecommunications, the loss of markets is long-term as the initial choice of a supplier determines services, parts, and follow-on sales.

In closing, Mr. Chairman, the committee has reported out a solid bipartisan bill reauthorizing this vitally important agency. I would urge Members to give it their enthusiastic support.

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

□ 1345

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

Mr. Chairman, I rise today in support of this bill and urge that my colleagues would support the Committee on Banking and Financial Services's report on the reauthorization of the Export-Import Bank of America.

Let me first thank the gentleman from Iowa [Mr. LEACH], the chairman of the committee, for his consistent efforts to reach an agreement on each and every one of the difficult issues that we have had to face. I would be remiss if I did not thank the gentleman from Delaware [Mr. CASTLE] for his efforts at the subcommittee level. We worked well together on the bill that is before this House this afternoon. I also wish to thank the gentleman for continually including my staff in bipartisan deliberations throughout this past 2 years as we have moved forward on this bill.

We have accomplished a great deal in the Committee on Banking and Financial Services's markup of the Export-Import Bank reauthorization, H.R. 1370. We reached three major goals. First, we instruct the State Department to expressly use the Chafee amendment process when it has national interest concerns with potential Ex-Im deals. Last year, the bank was requested to more or less take a role in deciding foreign policy. That is not the bank's mission. With guidance from the gentleman from Nebraska [Mr. BEREUTER], we have adopted a policy in this bill which would make Congress's intent clear with respect to the Chafee amendment.

We also create an advisory panel to counsel the bank on efforts to increase United States imports to sub-Saharan Africa. Congress has witnessed, over the past 5 months, the bipartisan commitment to increase trade with Africa. This commitment seems to resonate from the administration, the Congressional Black Caucus, the Speaker, and the rank and file Members of this Congress. I believe this is the right thing to do, and in fact, we should have done it years ago. Nevertheless, I am happy to have created this panel now, and even as we move forward, my hope is that it will do what we have created it to do.

Finally, we create mandated ethics counseling within the Ex-Im. Consequently, we assure that employees have the best possible ethical advice when major financing decisions are made.

Mr. Chairman, let me expand my remarks by stating that we need the Export-Import Bank. We need the institution because the global market for U.S.

products shrinks when foreign companies consume lucrative opportunities. Furthermore, this market contraction is most often due to the fact that the companies have the complete support of their export credit agencies when they come to the table from other countries. While these companies have this explicit support from their governments, our companies face financial reluctance from private capital markets, and tend to find it extremely difficult to finance their exports and thus maintain a viable employment base of economically empowered U.S. citizens. Their lender of last resort policy has thus become a problem for the Export-Import Bank.

Ex-Im also is the financier of companies willing to export to risky markets. As we all know, taking risks is in the great American tradition of creating opportunities throughout entrepreneurship. Export-oriented entrepreneurs are the enterprises which government should assist, and supporting new opportunities and emerging markets will continue job growth where we need it the most, here in our own labor markets. As many should come to realize, Ex-Im operates under the adage, ''jobs through exports.''

My last remarks will again focus attention on Africa. We have a tremendous opportunity to foster trade with this last untapped market in the world. The export markets in Europe, Latin America and Asia are saturated, and new opportunities will come far and few between in the years to come. Africa, on the other hand, is still ripe for business. Countries like South Africa, Zimbabwe, Botswana, and Namibia have growing economies with sophisticated indigenous business cultures and represent viable markets for United States exports. French, English, German, and Malaysian businesses are moving aggressively into these marketplaces, and they are doing so with tremendous support from foreign credit agencies. U.S. businesses also need that same kind of support which only the Ex-Im Bank can give.

Toward that end, I am pleased to note that Ex-Im has recently sent a delegation to sub-Saharan Africa to explore opportunities for United States exports, and I am equally delighted to see efforts by the administration and colleagues of ours like the gentleman from New York [Mr. RANGEL] and the gentleman from Illinois [Mr. CRANE] who promote trade between the United States and Africa. I will encourage Ex-Im to work within these discussions, and signal my intent to encourage and craft a working system within Ex-Im to explore the very new opportunities that have been made available to us in sub-Saharan Africa.

Mr. Chairman, I close by noting that there are detractors of the agency, and we certainly are cognizant of corporate welfare arguments. This line of reasoning, however, ignores the fact that 81 percent of Ex-Im's financing deals go to small businesses. It also ignores the reality that for the 29 percent of deals that Ex-Im does with large enterprises, it inherently still maintains the operations of small business subcontractors and suppliers. These enterprises operate throughout the Nation and employ thousands of American citizens.

Thus, if we examine the institution's impact on American employment, we cannot come to the conclusion that Ex-Im is an exclusive concessional window of credit to corporate America. Rather, it is a lender of last resort, and it is successful in financing billions of dollars in U.S. exports for a rather small budget. In short, we need Ex-Im, and I intend to support its reauthorization and hope that my colleagues in the House will join me.

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

Mr. CASTLE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. MANZULLO], a member of the Committee on Banking and Financial Services.

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

Mr. MANZULLO. Mr. Chairman, every bill and subsequent law that we pass in the House of Representatives has a face to it, and I would like to tell my colleagues about a couple thousand faces, people who get up at the crack of dawn, pack their lunch, get their kids off to school, go off to work, come back home, and oftentimes their spouses are also working. These are the 2,000 faces of the highly skilled union members of Beloit Corp. in Beloit, WI, and South Beloit, IL. They are the ones on behalf of whom I speak this afternoon in urging this body to reauthorize the Export-Import Bank.

Mr. Chairman, there are only three manufacturers of papermaking machines in the world: one in Finland, one in Germany, and one in the United States. These are obviously very sophisticated and huge machines. Some run as long as an entire football field. In doing battle with countries overseas that have subsidies of a sort to the manufacturers, these men and women who work very hard at the Beloit Corp. do not quite understand the intricacies of international banking, but they do understand when their company is put in a position where it is being hammered by overseas export agencies that prefer Finland and Germany. So the Export-Import Bank was started on behalf of these working men and women so that the corporation for which they work could be on an equal footing with the Finns and the Germans.

An opportunity came up for these men and women to build some huge machines to go to Indonesia. We helped Beloit Corp., and we helped those 2,000 people, and by helping those 2,000 people get that type of loan, the loan of last resort, the loan that would not exist otherwise, the loan were it not for the existence of Ex-Im Bank would have meant that they would have lost their jobs for a considerable period of time, that that loan not only made possible the work for these 2,000 people, but also 2,940 suppliers all over the United States. In fact, over 640 in the State of Massachusetts alone; several hundred in the State of Illinois, and likewise throughout the country. Because these types of loans that are given to companies doing royal battle in the international market really are not about corporate subsidies, end of quote; they are about the 2,000 people I represent at Beloit Corp. and about the nearly 3,000 suppliers, many of whom are little bitty guys that are battling it out, and Ex-Im is really for them.

Now, most of these people do not even know what the Ex-Im Bank is. All they know is whether or not they have an order to ship parts and to do some labor for Beloit Corp. So I am here today to speak on behalf of these 3,000 suppliers and the 2,000 people directly involved at Beloit Corp., and to the tens of thousands of workers across the land whose very livelihood depends upon the ability of the United States to engage competitively for overseas markets.

That is really what Ex-Im Bank is all about; it is about people. It is not about big companies, it is not about corporate welfare; it is about people, people who get up at the crack of dawn, pack their lunch, go off to work and thank God that they have a job so that they can raise their children.

Mr. Chairman, I would urge the Members of this body to reauthorize Ex-Im Bank because it does one thing that the private sector simply cannot do. It provides the tough, last-chance financing that companies need in order to be competitive globally. Ex-Im, in fact, in 1995 helped generate $13.5 billion in exports for the U.S. economy, which directly exported 200,000 high-wage U.S. jobs.

Mr. FLAKE. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. LAFALCE], the outstanding senior member of the Committee on Banking and Financial Services.

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

Mr. LAFALCE. Mr. Chairman, I thank the gentleman for yielding me this time.

First of all, I want to commend both the chairman of the subcommittee, the gentleman from Delaware [Mr. CASTLE], and the ranking Democrat on the subcommittee, the gentleman from New York [Mr. FLAKE], especially Mr. FLAKE because he will be retiring from Congress on October 15, for the outstanding job they did, both in subcommittee and full committee, in developing this bill and having it reported out in a bipartisan and enthusiastic fashion.

Some individuals ask the question: Should governments be involved in the subsidy of exports? And the theoretical answer to that is well, no, they should not be. So if we lived in this theoretical world that we would like to, governments would not subsidize.

But the fact of the matter is, we do not live in a theoretical world, we live in a very real world, a very real global economy, in which other governments assist companies in their countries to export. How much do they do this? Well, in the United Kingdom, 2.7 percent of national exports are subsidized. In Italy, 3.1 percent. In Germany, 5.2 percent. In Canada, 7.9 percent. In Spain, 8.3 percent. In France, 19.6 percent. In Japan, 47.9 percent. I repeat, in Japan, 47.9 percent. In the United States, 1.58 percent.

□ 1400

Our subsidy is infinitesimally small in comparison to the subsidies of some of our principal competitors, such as Japan, France, et cetera.

Until the real world conforms to this theoretical world that we would like to exist, we must not unilaterally disarm. We must reauthorize our export agency, the Export-Import Bank.

There are a number of amendments that have been allowed by the Committee on Rules, seven. As we consider these amendments, let us realize that this bank is not a foreign policy instrument. This bank does not give subsidies to foreign countries. This bank gives business exclusively to United States companies for U.S. exports, regardless of the country involved. We ought not to try to make this an instrument of foreign policy micromanaged by the U.S. Congress.

Let us also keep in mind that there is a significant small business impact. I reiterate the comments of the gentleman from New York [Mr. FLAKE]. In fiscal year 1996 there were almost 2,000 small business transactions, a 60-percent increase since 1992. Of these, about 25 percent were first-time transactions for small businesses. Of all the transactions of the Eximbank, 81 percent of all transactions, accounting for about 21 percent of the dollar amount handled, were for the small business community. Of all the transactions, 81 percent were for small businesses in the United States.

For all of these reasons, I hope this body will overwhelmingly endorse and reauthorize this Bank. I hope we will look at these amendments that will be offered, these seven, one of which is mine, which would be to simply rename the Bank, and be selective in our acceptance or rejection of them, not trying to make it a foreign policy judgment, but a trade judgment, a jobs judgment that we make.

Mr. CASTLE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. PAUL], with whom I disagree on this bill, but I totally agree with his right to present his points of view.

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

Mr. PAUL. I thank the gentleman for yielding time to me, Mr. Chairman, and for the disclaimer.

Mr. Chairman, it is correct, I am going to vote no on this bill, for various reasons. I stated some of those earlier on. One is constitutional. There is a strong moral argument against a bill like this. But I am going to talk a little bit about the economics. Also, one other reason why I am going to vote against this bill has to do with campaign finance reform. If we vote no against this, I think we would be working in the direction of campaign finance reform.

I myself get essentially no business PAC money. I do not have any philosophic reasons not to take it. I would take the money on my conditions, but that sort of excludes me. But not infrequently when I would visit with large corporations they would ask me, what is my position on the Export-Import Bank. And when they would find out, of course they would not give me any money.

So I would say that the incentive to get people to do certain things for subsidies gives this incentive for big corporations to subsidize and to donate money to certain politicians. If we did not have so much economic power here, there would not be the incentive for big business to come and buy our influence.

Mr. Chairman, I do not happen to believe that campaign finance reform will ever be accomplished by merely taking away the right of an individual or company to spend money the way they see fit. Regulating finances of a company, once a company can come in here and put pressure on us to pass the Export-Import Bank, I think is an impossible task.

There have been certain economic arguments, so-called, in favor of this bill, but I think there are some shortcomings on the economics. One thing for sure, I think even the supporters of this bill admit that this is not free trade, this is an infraction that we have to go through because the other countries do this.

But we might compare this. It is true, we subsidize our companies less than Japan, but would Members like to have Japan's economy right now? Japan has been in the doldrums for 8 years. They subsidize it 30, 40, 50 percent of the time. Maybe it is not a good idea. Yes, ours are small in number, but why should we expand it and be like Japan? So I would suggest that the benefits, the apparent benefits, are not nearly as great as one might think.

The other thing that is not very often mentioned is that when we allocate credit, whether we expand credit, which was mentioned earlier, that we do expand credit, we extend credit, we allocate it, we subsidize it, so we direct certain funds in a certain direction, but we never talk about at the expense of what and whom.

When a giant corporation or even a small business gets a government-guaranteed loan, it excludes somebody else. That is the person we never can hear from, so it is the unseen that is bothersome to me. Those who get the loans, sure, they will say yes, we benefited by it. Therefore, it was an advantage to us. But we should always consider those individuals who are being punished and penalized, that they do not have the clout nor the PAC to come up here and promote a certain piece of legislation.

Another good reason to vote against this piece of legislation, it is through this legislation that we do support countries like China and Russia. This is not supporting free markets. They are having a terrible time privatizing their markets. Yet, our taxpayers are being required to insure and subsidize loans to state-owned corporations.

China receives the largest amount of money under Eximbank. I do believe in free trade. I voted for low tariffs for China. I support that. But this is not free trade. This is subsidized trade. It is the vehicle that we subsidize so much of what we criticize around here. Some people voted against low tariffs for China because they said, we do not endorse some of the policies of China. They certainly should not vote for the subsidies to China nor the subsidies to the corporations that are still owned by the state in Russia, because it is at the expense of the American taxpayer.

It is said that the companies that benefit will increase their jobs, and that is not true. There are good statistics to show that the jobs are actually going down over the last 5 or 6 years. Jobs leave this country from those companies that benefit the most.

It is also said quite frequently here on the floor that this is a tremendous benefit to the small companies. Eighty-some percent, 81 percent of all the loans made go to small companies. There is some truth to that. That is true, but what they do not tell us is only 15 percent of the money. Eighty-five percent of the money goes to a few giant corporations, the ones who lobby the heaviest, the ones who come here because they want to support high union wages and corporate profits for sales to socialist nations and socialist-owned companies.

For these reasons, I urge a no vote on this bill.

Mr. FLAKE. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, I just want the gentleman from Texas [Mr. PAUL] to understand that when the gentleman from Delaware [Mr. CASTLE] and I started putting the bill together, campaign finance reform was not such a hot issue. I think it is a bit of a stretch to include it in the bill.

Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. VENTO], a senior member of the Committee on Banking and Financial Services.

Mr. VENTO. Mr. Chairman, I rise in support of this 4-year reauthorization and the tied aid program that is also being reauthorized in this measure.

Mr. Chairman, this measure is necessary because so often in the markets in which we are exporting in an increasingly global marketplace, the nature of the risks and the structure of

the economies in these nations does not permit our companies, our entities that want to sell a product, a quality American product, to in fact be purchased; often there is not the financial structure.

As an example of that, look at the newly independent nations, the newly emerging nations that formerly comprised the Soviet Union. It is a very good point in fact that the committee report outlines. Here the banking and finance structure in these nations does not facilitate the extension of credit. So in order to facilitate the sale, many nations, our competition, in fact, provide for a more integrated type of credit structure to provide the sale of those products at the end of the day.

This credit that we extend here in fact attempts to do that. Usually it is a blended credit, a credit that we provide in conjunction with other U.S. financial institutions and other international financial institutions. So we are simply taking some of the risks, but an essential part. In doing so, the Ex-Im Bank, by taking that position, actually builds a foundation upon which credit in turn is built in these newly independent nations, as I pointed out, or states, newly independent states in the former Soviet Union.

Of course, it facilitates then a new marketplace for our products and facilitates an economic growth. For I think most of us, it is in our interests obviously in terms of jobs, in terms of making our global economy and marketplace work, to have this program in place. While a large number of the loans, 81 percent, are to small business, they make up only about 20 percent of the export credit.

So I want to credit the subcommittee ranking member and chairman for their work, and especially the ranking member, for whom it will probably be his last bill on the floor that he manages. He has been a good and dedicated Member. He shall be missed. We appreciate very much the gentleman's work, and I thank him.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, American companies and American workers can compete against anyone in the world if they are given a fair chance. With 95 percent of the world's consumers residing outside of America, we have economic battles going on around the globe.

Just as a strong national defense has ensured American military superiority, the Eximbank allows our companies to have a level playing field, and allows our companies to have an opportunity to compete against workers and companies anywhere throughout the world.

Right now the Government Accounting Office has said the most compelling reason for reauthorizing the Export-Import Bank is to level the international playing field for U.S. exporters, and to provide leverage, very much needed leverage, in trade policy negotiations to induce foreign governments to reduce and ultimately eliminate subsidies. Without the Bank, we do not have that opportunity, that leverage, and that strength, and our companies need that.

My goal is to have throughout the world a playing field where decisions of purchasing are made on the basis of price and quality and product and service. But that is the world we live in today. We need a strong economic tool, the Eximbank, to guard against unfair foreign subsidies and to give our companies and our workers a fair chance.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WATERS], a ranking member of the subcommittee.

Ms. WATERS. Mr. Chairman, I rise today in support of H.R. 1317 to reauthorize the Eximbank. As a member of the Committee on Banking and Financial Services, I want to congratulate the gentleman from Delaware [Mr. CASTLE], the chairman of the Subcommittee on Domestic and International Monetary Policy, and the gentleman from New York [Mr. FLAKE] for their work on this important bill.

The Eximbank provides low-interest rate direct loans, export credit insurance, and loan guarantees to finance the purchase of U.S. goods internationally. There have been some criticisms today of the Bank. I share in some of those criticisms.

There are those who would believe that somehow I want to do away with the Bank. If we ask a lot of people, their first thought is the gentlewoman from California [Ms. MAXINE WATERS] is not going to support it, because too many big businesses receive the benefit from it. Not true.

Yes; I am concerned that too much of this goes to big businesses, but I am also concerned that we have the kind of dollars to support American firms that will make them competitive in the international market. Therefore, I want to expand this to more small businesses. I want to pay some attention to Africa, I want to make sure we make it what it should be. I do not want to get rid of this money. I do not want to do away with this opportunity.

There have been some important reforms that have been put into the legislation by the gentleman from Vermont [Mr. SANDERS] and others to make sure that labor is represented on the advisory board, to make sure that we have recommendations about how we can increase projects in Africa. I think we have some opportunities here.

I do not think we should just sit back and say, well, it is all right. It has not done everything we would like it to do. I think we should say, let us take this opportunity to provide subsidies, to provide credit, to provide loan guarantees, to be more competitive in the international market, to create jobs, to do all of those things. But let us not just sit back and criticize it and say the big firms are getting it all. I want some of the firms in my district to be involved, and I am going to make sure they are. I am going to make sure I pay attention to it.

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

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

□ 1415

Mr. MICA. Mr. Chairman, before coming to Congress, I was involved in international trade and saw firsthand what is happening in the trade arena. In fact, if all things were equal, we would not need Eximbank, but I am here to tell my colleagues that in fact we need Exim. In fact, it is one of the most valuable programs of this Government. In fact, the United States is in an economic fight for its life. In fact, the United States is now running a trade deficit that exceeds the national annual deficit. The fact is that we are competing against Japan, the United Kingdom, France, and a host of other countries that do a much better job backing up their business and creating an unlevel playing field for our business people.

Exim creates thousands, tens of thousands of jobs. Exim allows U.S. companies to compete in this international marketplace. Exim is not corporate welfare. Exim is not any type of subsidy. Exim in fact gives our American companies and our men and women that are seeking jobs and opportunity in this country that opportunity and the ability to compete in a growing world marketplace.

Mr. Chairman, I strongly recommend the passage of this legislation and request support from every Member of this Congress that is interested in jobs and opportunity for every American.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

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

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of this legislation because it contains some amendments which I think make the reauthorization palatable. But I should be very clear that if the amendments are taken out in conference, I will do everything that I can to defeat this reauthorization.

Mr. Chairman, one of the great economic crises of our time is the decline in real wages of American workers and the loss of millions of good manufacturing jobs. In my view, we are not going to rebuild the middle class and create good paying jobs unless we rebuild our manufacturing sector. Given that reality, Mr. Chairman, it is unacceptable that the taxpayers of this country continue to provide financial support for large multinational corporations who are laying off hundreds of thousands of American workers,

they are taking our jobs to China, to Mexico, to countries where workers are paid 20 or 30 cents an hour. But then they come into this building and they say, help us, we need some money to participate in the export-import program.

Mr. Chairman, I have introduced an amendment which was accepted by the Committee on Banking and Financial Services which has a very simple goal. It demands that the Export-Import Bank implement procedures to ensure that in selecting among firms to which to provide financial assistance, preference is given to a firm which has shown commitment to reinvest in America and create jobs in America.

I do not think that is too much to ask. If the American taxpayers are going to help out in this process, they have a right to know that the companies who receive that help have a commitment to reinvest in America and create jobs in America and not to run to Mexico, not to run to China.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. HOUGHTON].

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

Mr. HOUGHTON. Mr. Chairman, I am not going to spend a lot of time because most of the arguments that I would use have already been used and they have been gone over and over and Members understand the merits and the demerits.

I think the only thing I can say is, I have been there. I understand what the Eximbank can do. It is a little bit like the Olympics. It used to always be amateur, and then all of a sudden it changed, and then people said, gee, maybe we ought to change, too.

Commercial banks used to be able to do what they are no longer able to do, and you find corporations, little companies, competing against countries. That is wrong. We can see it in the marketplace. Many times you have a good product, good service, good reputation, terrific quality, cannot sell your equipment because the financing terms are wrong. That is what the Eximbank does. I strongly support this amendment.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Chairman, first I would like to commend the gentleman from Delaware [Mr. CASTLE], the chairman, and the ranking member, the gentleman from New York [Mr. FLAKE], for their hard work on this legislation and particularly to add my words of appreciation to the gentleman from New York [Mr. FLAKE] for his many years of service. We regret that he has chosen to retire from this body, and we will miss him.

If we want to compete in the world economic arena, we must stand with the people who make the products which are exported. American companies need to enter the trade battle well armed, and the best way we can arm them is by allowing the Export-Import Bank to continue its work. Since 1990, one-third of the total growth in U.S. output has been in exports. In other words, if we want the tremendous growth we are seeing at this point to continue, we need to be aggressive in promoting exports.

The Export-Import Bank helps to level the playing field with U.S. exporters by using specific tools to make sure our industries are able to do business overseas. These tools include export credit insurance, guarantees on commercial loans for purchases of U.S. exports, and working capital guarantees to encourage banks to lend money to small exporters.

The bank only provides these tools when the private sector does not or cannot. The bank does not prevent anyone else from providing these services. It only provides them at or above market rate when no one else can or will.

I know from the experience of my own State of New York just how great an impact the Export-Import Bank has had on our economy. Between 1992 and 1996, the bank supported 345 companies and financed $3.8 billion in exports. This has translated into an estimated 56,000 jobs. During this 5-year period, the bank has returned about $20 worth of exports for each dollar it has spent. I support this.

Mr. CASTLE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services.

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

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me the time. I would like to also express my great appreciation for his leadership on this issue and also that of the gentleman from New York [Mr. FLAKE].

In that the gentleman from New York [Mr. FLAKE] is retiring from this body, I would think it very appropriate to point out that the gentleman from New York [Mr. FLAKE] is not only one of the most decent Members I have ever served with, he has a streak of pragmatic practicality that is as large as any Member in this body. I think that is something that is much appreciated by everyone who has ever worked with him.

As for the Export-Import Bank, I know of no institution in the U.S. Government that has been more successful and is more supported on a bipartisan basis. Republicans, Democrats, business, labor, all have come to appreciate this particular small institution that helps the American worker and American business to compete in a very sophisticated global environment. Reauthorization of this institution is, thus, highly critical for America's competitive position in the world.

Just to give one example, because sometimes in vignettes there is great truth, I spoke at an event in East Moline, IL, this spring at the John Deere Co., where business and labor came together to celebrate an Export-Import Bank supported production assembly of hundreds of tractors and combines that were sent to the Ukraine. At this event, a train actually took off with a group of combines on it. A series of people talked abstractly about the Export-Import Bank, but real meaning was brought by an 18-year-old woman who had been hired by Deere and Company, their first literally youthful hiree in the last decade. Her job was made possible simply because of this export-supported program. I think that is a very telling circumstance.

The issue of corporate welfare has properly been raised. On the other hand, the Export-Import Bank over its long history has about broken even, slightly made a little bit of money, but approximately broken even. But if one adds to the U.S. Government revenue all the funds that are derived from those that pay taxes because of jobs they had that they would not otherwise have had, the Export-Import Bank is enormously in the black. So I think one can say that this is a very pragmatic institution of government.

If there is a corporate welfare argument, which properly arrises any time there is government intervention, it should be noted that the real corporate welfare would be to Japanese and French and German companies if we do not reauthorize Export-Import Bank.

In conclusion, let me just suggest that if we look at our own economy, that is doing rather well the last few years, it is impressive to point out that fully one-third of the economic growth in this country is related directly to exports. That export-driven growth is singularly important to the well-being of all Americans.

Finally, because this is a fairly partisan era, let me say to the Clinton administration that they have appointed decent people to work at the Export-Import Bank, decent people to lead it, and they have led in a very pragmatic direction that has emphasized small business support, and as chairman of the authorizing committee, I want to tip my hat to the administration for its attention to this institution.

Let me also express my gratitude to our distinguished retiring former chairman, Representative GONZALEZ, Representative LAFALCE, the chairman of the Asia Subcommittee, Mr. BEREUTER, and one of this body's strongest supporters of small business, Representative MANZULLO, among many others.

Mr. Chairman, as Members are aware, Eximbank is an independent Federal agency established to provide export financing for

U.S. businesses. The Bank has a dual purpose: to neutralize aggressive financing by foreign export credit agencies, and to furnish prudent export credit financing when private financing is unavailable or insufficient to complete the deal. It does this through a variety of loan, guarantee, and insurance programs. Since its founding, Eximbank has supported more than $300 billion in U.S. exports, almost $100 billion in this decade alone. The Bank currently supports about $15 billion in U.S. exports annually. More than 80 percent of Eximbank's transactions are for exports from small businesses, a dramatic increase from just a few years ago.

Most of Eximbank's activities are directed at supporting U.S. exports to emerging market economies. As we all understand, developing markets offer tremendous opportunities for American businesses. More than 40 percent of U.S. exports, worth about $180 billion, go to developing countries, and the amount is rising. The World Bank estimates that by the year 2010, these countries will consume 40 percent of all goods and services produced worldwide. From a midwestern agribusiness perspective, exports not only of crops, but value-added products from processed pork to refined steel, tractors and combines are increasingly in demand.

In many respects, the heightened importance of exports to my home State of Iowa parallels the growing importance of exports to the overall national economy and the Nation's standard of living. In 1970, for example, the overall value of trade to the U.S. economy equals about 11 percent of GDP. Over the past 3 years, exports have accounted for about one-third of total U.S. economic growth. In 1995, some 11 million jobs depended on exports, and by the year 2000 that number will have risen substantially.

But commercial competition for sales in the global economy is formidable, particularly in emerging markets. Evidence of competitive financing is often a requirement just to bid on a contract. To sweeten the financing terms for potential buyers, many foreign export credit agencies eagerly offer officially backed loans or guarantees as a way to cinch the deal for their own country's exporters. At other times, the requirement of official financing for the import of goods and services is simply written into the terms of the foreign contract.

If the United States is to remain the world's preeminent exporter, which I am sure is the goal of every Member in this body, then American companies and American workers need the support of Eximbank to defend themselves against foreign government-supported competition. And that competition is substantial.

According to the General Accounting Office [GAO], no less than 73 export credit agencies now exist worldwide. Yet the United States devotes fewer resources to trade finance than our competitors. For example, in terms of the percentage of national exports financed by the G–7 industrialized countries, Eximbank is tied for last. In 1995, Eximbank supported 2 percent of total U.S. exports. By contrast, Japan supported 32 percent of its countries exports that year, with France second at 18 percent.

That lower level of spending is also consistent with a U.S. preference for fair competition in free markets. Again according to GAO, unlike Eximbank, other export credit agencies ''appear to compete to varying degrees with private sources of export financing. They do not aim to function exclusively as 'lenders of last resort,' as Eximbank strives to do.''

Eximbank is the last line of defense for American businesses that are competitive in terms of price, quality, and service but which are facing officially financed foreign competition. As one witness testified before the Banking Committee earlier this year, ''This is the crux of the matter. No U.S. company, no matter how big, can compete against a foreign government in international finance. Neither can U.S. commercial lenders.''

In this context, Eximbank estimates that in 1995 almost three-quarters of its activity was directed at leveling the playing field for American exporters, while the rest went toward making up gaps in private financing. Eximbank also helps give our negotiators leverage to bring greater discipline to the rules governing official export-credit-agency financing. And this trade policy leverage has been used effectively to negotiate subsidy reductions. For example, tied aid export promotion offers by foreign governments have declined by 75 percent since 1991.

Interest rates on Eximbank's direct loans are priced at the cost of borrowing plus 1 percent. Guaranteed loans are priced by commercial banks at market levels. Eximbank also charges U.S. exporters exposure fees to cover the risk of loans. The Bank's annual program budget reflects the difference between these fees and losses which may be incurred on new business committed that year. This appropriation acts as a loan loss reserve. As a result of the Bank's requirement of a reasonable assurance of repayment for each transaction, losses on the approximately $125 billion of loans financed since 1980 are less than $2.5 billion—a loan loss ratio of 1.9 percent. This figure is superior to that of commercial banks lending to foreign governments. It should also be noted that the Bank is fully reserved against potential losses in its guarantee and insurance portfolio.

In closing, I would stress that Eximbank's role in U.S. trade finance reflects the almost instinctive American philosophical preference for open markets and open trade. As GAO testified before the Banking Committee, Eximbank functions as a lender of last resort to American exporters. But while Congress has mandated that Eximbank complement the market and not compete with the private sector, other well-supported export credit agencies have historically demonstrated less fidelity to the precepts or free markets of fair trade.

Without Eximbank, American exporters would be left defenseless in the face of aggressive officially financed foreign competition. The ability of American firms to win contracts, market-share, and follow on deals in important emerging market economies—and the high paying jobs that support those exports—would be placed in jeopardy. Congress needs to reauthorize Eximbank to help continue to reduce export credit subsidies and make international trade more market-oriented. I urge support for this important legislation.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

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

Mr. BENTSEN. Mr. Chairman, let me thank my colleague, the gentleman from New York [Mr. FLAKE], and congratulate him on his service in this House, working with the chairman of the subcommittee, the gentleman from Delaware [Mr. CASTLE], on getting this bill through.

As an original cosponsor of H.R. 1370, I strongly support its passage. I am going to bypass getting into the issue of the amount of exports it has done for my State and talk about a couple of issues that my colleague from Texas raised earlier.

I think we need to get at the real issues about this. This is not a question of living in a perfect world. We do not live in a perfect world. We cannot go back to mercantilism, and, as a matter of fact, mercantilism did not work. I am afraid my colleague from Texas is advocating just that.

The fact is, it is not an issue of free trade. If it were free trade, the Japanese would not subsidize their export market up to 32 percent, the French would not subsidize their export market up to 18 percent. This is a question of leveling the playing field.

What Exim does is to extend credit where the private market will not go or at the price that will not allow U.S. companies to participate in the deals. The fact is, only 3 percent of the U.S. export market is involved in this. The loss rate is 1.9 percent, which is less than the commercial lending loss ratios.

The classical view offers no empirical evidence of any misallocation of credit. That would assume both an extremely finite capital market, which I think is unlikely, and the nonexpansive U.S. business strategy that, if you go one place, you are not going to try and get business somewhere else. Those of us who came from the private sector realize you try and get business where you can.

The fact is, U.S. companies which cannot obtain financing without Exim would either lose the business or would partner with foreign companies who had more favorable financing terms from their home countries. That would be at the expense of both the United States economy and U.S. workers at home.

I would encourage my colleagues not listen to these cries of corporate welfare but to look at the facts, look at what really has been laid on the table, because the opponents of this in the hearings before the committee brought no evidence whatsoever to the contrary that Exim does, in fact, create U.S. jobs and protect U.S. jobs.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. SMITH], in a sense of fairness and comity, because he is on the other side of this.

□ 1430

Mr. SMITH of Michigan. Mr. Chairman, I rise to address the issue of corporate welfare.

The Export-Import Bank subsidizes loans and loan guarantees to American exporters and it has cost hundreds of

millions of dollars. The experts agree Ex-Im Bank should be abolished.

The Congressional Budget Office makes the following observation: Ex-Im Bank has lost $8 billion on its operation, practically all in the last 15 years. ''Little evidence exists that the bank's credit assistance creates jobs.'' ''Providing subsidies to promote exports is contrary to the free market. It subsidizes big companies at the loss of small companies.''

The Heritage Foundation recommends that Congress close down the Export-Import Bank. Heritage further states, ''Subsidized exports promote the business interests of certain American businesses at the expense of other Americans.''

Mr. Chairman, I think it needs to be closed down. I do not think we can close it down all at once. It needs to be phased out, but let us alert ourselves to what is happening. We are subsidizing huge corporations at the expense of small business.

Mr. Chairman, I rise to address the issue of corporate welfare. As we eliminate the fat from the Federal budget, we should recommit ourselves to making sure all projects and programs are closely examined—not just the politically easy ones.

The Export-Import Bank [Eximbank] subsidizes loans and loan guarantees to American exporters. These corporate welfare subsidies have been appropriated $787 million for 1996.

The experts agree; Eximbank should be abolished.

The Congressional Budget Office makes the following observations:

Eximbank ''has lost $8 billion on its operations, practically all in the last 15 years'';

Little evidence exists that the bank's credit assistance creates jobs;

Providing subsidies to promote exports is contrary to the free-market policies the United States advocates.

The Congressional Research Service writes that:

Most economists doubt that a nation can improve its welfare over the long run by subsidizing exports;

At the national level, subsidized exports financing merely shifts production among sectors within the economy, rather than adding to the overall level of economic activity;

Export financing ''subsidizes foreign consumption at the expense of the domestic economy'';

Subsidizing financing ''will not raise permanently the level of employment in the economy . . .

The Heritage Foundation recommends Congress close down the Export-Import Bank.

Heritage further states:

Subsidized exports promote the business interests of certain American businesses at the expense of other Americans;

Little evidence exists to demonstrate that subsidized export promotion creates jobs—at least net of the jobs lost due to taxpayer financing and the diversion of U.S. resources in to government-favored export activities at the expense of non-subsidized business.

According to Heritage, phasing out subsidies will save 2.3 billion over 5 years.

The director of regulatory studies at the Cato Institute calls the subsidy activity of Eximbank "corporate pork." He stated, "Even in the face of unfair international competition, the U.S. government doesn't have a right to use tax dollars to match equally stupid subsidies."

Eximbank's financial statements show that the Bank has paid $3.8 billion in claims from 1980–94. These dollars paid off commercial banks who couldn't collect from foreign borrowers. American taxpayers took the hit.

Exports financed by Eximbank actually hurt competitive U.S. exporters not selected for subsidies. The Bank chooses winners and losers in the economy. The only winners are selected foreign consumers and selected U.S. corporations.

The Eximbank is a prime example of corporate welfare. The majority of Eximbank subsidies go to Fortune 500 companies that could easily afford financing from commercial banks: Boeing—over $2 billion worth of loan guarantees; McDonnell Douglas—$647 million; Westinghouse Electric—$492 million; General Electric—$381 million; and At&T—$371 million.

To raise funds for its lending and guarantee programs, Eximbank puts additional pressure on Treasury borrowing, driving up interest rates for private borrowers. That's all of us. From a corner barbershop wanting to expand to a young family trying to finance their first home. We all pay the price.

Sadly, there's more.

Eximbank appears to have wasted money on frivolous items as well. After 50 years with the same agency logo, Eximbank decided it needed a new one. Designing a new logo—including creation, copyright search, and the redesign of Bank brochures and literature—cost nearly $100,000 last year.

And in 1993, Eximbank spent $30,000 to train 20 employees how to speak in public—including chairman Kenneth Brody. An outside consultant was paid $3,000 a day for this task.

Mr. Chairman, I believe Government shouldn't choose winners in the economy. With Eximbank, the big winners are foreign consumers, large corporations, and professional speech coaches. The losers are American taxpayers.

Mr. Chairman, it's time to derail this gravy train.

Mr. FLAKE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut, Mrs. KENNELLY.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I urge my colleagues today to reauthorize the Export-Import Bank for one very, very important reason, and that is because it will create jobs.

In my home State of Connecticut the bank has already supported $251 million in exports from almost 100 local companies. Not big companies, small companies. In short, these exports mean jobs.

Connecticut is far from alone in benefitting from the Export-Import Bank. Over the last 5 years, the Bank has supported over $76 billion in foreign sales of American products which supported almost 200,000 jobs. The Bank produces these results by providing loans and insurance to help American companies export products, and this point is very, very important.

We do, in fact, live in an international world. If we are to keep our standard of living in the United States as we want it to be, we are going to have to export more and more. Small companies can begin if they have help, if they can get that insurance, if they have that initial financing. Then, once they become exporters and become savvy in the way of exporting, they can be on their own. But right now the export-import financing is so important, especially in developing countries.

The Bank has a very good record of using taxpayer resources. Its loan loss ratio of 1.9 percent compares favorably to commercial loans that are made by banks. The mission of the Export-Import Bank is simple: Create jobs by increasing exports.

I urge my colleagues to vote for this reauthorization.

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

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

Mr. ROEMER. Mr. Chairman, I rise in strong support of the reauthorization of the Exim Bank, and I do so for the following reason:

Certainly the economy is doing well. Nobody can argue that. But we are not doing well enough in terms of manufacturing products in the United States, in terms of the $114 billion trade deficit projected for this year, and in terms of too big a trade deficit with the Japanese and the Chinese.

So some might come to the floor and say, well, we need to eliminate the Exim Bank. That is exactly the wrong thing to do. The accusations here on the floor about corporate welfare, about exporting jobs, about foreign aid are absolutely wrong.

The Exim Bank, while not a perfect tool yet, is moving in absolutely the right direction to manufacture more products in this country. There is a requirement in the charter, that the product must be manufactured in the good old United States of America.

Second, Mr. Chairman, we are seeing more and more of the business, in terms of transactions, move to small businesses. Eighty-one percent of Exim's transactions went to small businesses. Almost 2,000 small business transactions took place. The number of first-time small businesses in the Exim financing, 411, and many of those in my great State of Indiana.

So if my colleagues are concerned, Republicans and Democrats, about a $115, $114 billion projected trade deficit, if we are concerned about corporate welfare, if we are concerned about more small businesses getting in on these transactions, if we are concerned about making products in the good old USA, let us work together to make the Exim Bank be a product, a tool, an instrument more of our trade policy in addressing these things. While not perfect, it is moving in this direction.

Mr. FLAKE. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. MENENDEZ].

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

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me this time.

In the years to come, our domestic fortunes will be directly tied to our place in the global marketplace, and those countries that get a foothold today in the major markets of tomorrow will be the ones that thrive.

If Japan becomes the major supplier of telecommunications technology to South American countries, for example, whose technology will become their standard? Whose spare parts will they buy in the years to come? And who will they call to upgrade their systems in the next century? Japan. But with the support of the Export-Import Bank, they will be calling us in the 21st century, and our kids and grandkids will be making the technology. That is America's future.

The mission of the Export-Import Bank in this process is simple but critical: finance U.S. exports where commercial banks cannot or will not because of unfair foreign subsidies. If and when our trading partners throughout the world reduce their export programs, then we might begin looking at modifying ours. But in today's world, a show of anything less than the strongest support for our Export-Import Bank would be a sign of unilateral economic disarmament.

This is about jobs. It is why Republicans and Democrats alike are getting up to support it. It is about American jobs that will feed American families, that will pay American mortgages, that will send the kids to school. So I urge my colleagues to send a strong signal that America is not going to stand down in this competition for new export markets; that we are going to be able to stand up on behalf of American jobs and get this bill reauthorized.

Mr. FLAKE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

This is not a selfish stance I take, Mr. Chairman. This is one that really comports with what we should be doing in the U.S. Congress. I support the work of the gentleman from Delaware [Mr. CASTLE] and the ranking member, the gentleman from New York [Mr. FLAKE] to avoid a shutdown of the Export-Import Bank, and offer that we should reauthorize it. We should extend it for another 4 years. I wish we could do it for more. But $76 billion is not something to sneeze at. This is what has been generated by this bank in economic opportunity for American companies.

Additionally, in Texas it has helped textile manufacturing and petrochemical and energy companies in my district. I am delighted to emphasize that small businesses are, in fact, also targeted; that 81 percent of the bank's total transactions are with small businesses, 60 percent since 1992.

In sub-Saharan Africa we have made a decided difference in helping to enhance economic development with our own community of businesses there in Africa. And, yes, this is about jobs, 200,000 jobs. Jobs in the West, jobs in Houston, jobs in the Midwest, in South Dakota, in Michigan, in New York, in Atlanta, and all over this country people are benefiting with jobs because of the Export-Import Bank reauthorization act.

I would simply say to those who would argue corporate welfare, the fact is that Americans who work look to us to keep working to provide jobs. This bill will do this, Mr. Chairman. This is the right action to reauthorize this bill.

Mr. Chairman, I am gratified to have had just a small time to work with the gentleman from New York [Mr. FLAKE]. He is someone that is not only practical but is compassionate. I pay tribute to him, because of the great leadership that he has shown in this Congress.

And might I say that I have his wonderful family in Acres Home, TX, in the 18th Congressional District, which I represent. He is a friend, but he is a friend of all Americans. And I thank the gentleman from Delaware [Mr. CASTLE] for working as well with him on this very, very important legislation.

Mr. Chairman, I rise today in support of H.R. 1370, the Export-Import Bank Reauthorization Act. My colleagues, in today's highly competitive global marketplace the reauthorization of the Export-Import Bank will ensure that U.S. companies have the ability to compete globally and compete against other countries which subsidize their exports.

The Export-Import Bank has proven to be a productive tool in selling American-made products overseas. Over the past 5 years the Export-Import Bank has helped to sell more than $76 billion in U.S. exports in the world. In our global economy, opportunities for American trade with fast growing emerging economies around the globe have never been greater, and the stakes for U.S. business and labor in competing effectively for those markets have never been higher. The United States major trading competitors, with strong and abundant support from their governments are working to win these markets for their own. The Export-Import Bank is a key tool in our economic arsenal, and ensures that U.S. companies have a competitive edge.

In Texas, the impact of these exports on our economy is significant. In my district, Export-Import Bank financing has helped small textile manufacturing companies, to the large petrochemical and energy companies, as it exports abroad. Texas companies sell the second highest level of exports in our Nation. The Export-Import Bank helps to ensure that our State will continue to prosper and sell more Texas-made products.

I strongly believe that the Export-Import Bank is a good investment by our taxpayers. The Export-Import Bank works to level the playing field for U.S. companies and only targets those investments where our private capital markets have failed to serve.

Further, I was pleased to learn that H.R. 1370 is targeting small businesses. It is very important that small businesses do not feel left our of this economic boom because they have become an important engine of the economy which account for half of our gross domestic product while employing 54 percent of the private work force. In fact, a recent study by the Export-Import Bank shows that 81 percent of the Banks total transactions were with small businesses. This is an increase of 60 percent since 1992.

Being a adamant supporter of increasing trade with Africa, I am pleased to see the provision for promoting the Bank's financial commitments in sub-Saharan Africa under the Bank's program. Africa has been neglected by this Congress in terms of trade and economic development for far to long. I think this is a step in the right direction by the Export-Import Bank.

Some have labeled this program to be corporate welfare, others have argued that it is inefficient. In fact, Export-Import Banks' role cannot be dismissed. Over the last 5 years, the Bank has supported over 76.3 billion in exports, which in turn supported almost 200,000 jobs directly and over 1 million indirectly each year. This is a good deal for the U.S. Taxpayers.

My colleagues, all the evidence highlights the continued need for the Export-Import Bank. If the reauthorization of the Export-Import Bank is denied it would put U.S. companies at a disadvantage in that every other developed country has an export credit agency. If the Export-Import Bank is disbanded, it will put U.S. exporters at an unacceptable disadvantage. It would be foolhardy and dangerous to unilaterally disarm U.S. exporters. I urge my colleagues to support H.R. 1370 to ensure the reauthorization of the Export-Import Bank. Thank you.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume to comment that the gentlewoman does much to squeeze much out of a minute.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to also add my personal tributes to the gentleman from New York [Mr. FLAKE] who will be leaving us; and I also want to commend both the chair of the subcommittee, along with him, in bringing this reauthorization bill here.

We create jobs through promoting trade. By maintaining an effective marketing promotion program, we can more effectively compete globally.

Export promotion programs are producing unprecedented gain. The balance of trade deficit compels us to take a close look at American trade policy and at the institution responsible for carrying out those policies. But we should not ignore the fact that the best opportunity for growth in America lies beyond the borders of the United States.

There are some who question the wisdom of investing in global competition;

whether we should continue the Export-Import Bank. I think that questioning is really shortsighted. There is much to be had.

Look at the Pacific Rim, where two-thirds of the world's commerce flows. How can we ignore that? Look at China. One and a half billion citizens, potential consumers of American products, producing American jobs. Look at India, where people buy products and services, with a middle class larger than the United States. We cannot ignore that. America must be involved in that.

How must we be involved in that? The Export-Import Bank of the United States provides fertile ground and opportunity for those companies having that vision and who will take the time to venture out in those foreign markets. Their emphasis should be, indeed, on exports, because jobs are created as a result of that.

Yes, I say we should vote to reauthorize the Export-Import Bank and vote also ''yes'' on the LaFalce amendment.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume to close the debate by urging all my colleagues to understand the valuable resource that that Export-Import Bank is; to understand that we, as a nation, cannot afford to not be in a position to be globally competitive, and that our small businesses are in great need of the resources that are provided by this Bank.

This is not an entity where we are giving money away; therefore, any argument for corporate welfare is not consistent with what the Eximbank is. As a matter of fact, this Bank actually brings resources back to the Nation. Dollars that are invested actually bring money back to this country. It creates jobs in this country. It is a major economic development vehicle.

So it is my hope that all my colleagues will understand that it is important for us to put this Nation in a competitive situation, put our small businesses in the best possible posture so that they are not competing against governments of other nations.

I am pleased to have served in this last term of Congress with the gentleman from Delaware [Mr. CASTLE] as my chairman; with the gentleman from Iowa [Mr. LEACH] as chairman of the Committee on Banking and Financial Services; with the gentleman from Texas [Mr. GONZALEZ] preceding him; with the gentleman from New York [Mr. LAFALCE], and others who I have had an opportunity to work with.

This probably is my last bill on the floor, but my calling to ministry supersedes my election here, so I leave by saying I am grateful for the opportunity to have served.

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

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

I would like to start by standing in praise of our distinguished colleague, the ranking member of our subcommittee, the gentleman from New York [Mr. FLAKE]. We said goodbye to him on the floor about a week ago and here he is back again. But that shows us something about just how good he is.

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

Mr. CASTLE. I yield to the gentleman from New York.

Mr. FLAKE. Mr. Chairman, I would just say to the gentleman, that is politics.

Mr. CASTLE. Mr. Chairman, reclaiming my time, the gentleman is a tremendous asset to this House and, unfortunately, it is the good people who we tend to lose in circumstances like this, and he will be missed tremendously. I have enjoyed working with him in every way possible.

I will not add too much more to what has already been stated on this legislation. I think there is some confusion about what we are dealing with. We are not dealing with OPIC. We are not dealing with foreign policy. I think the gentleman from New York [Mr. LAFALCE] made that comment. This is not a foreign policy instrument.

We are going to see amendments here in a little while which would make one think it is a foreign policy instrument in which we will try to impose our different standards on various countries, some of which we will oppose, some of which we will swallow on a little bit, but all of which, I think, are a little bit dubious in terms of what this policy should be. This truly is what it may be renamed to, which is an export bank for the United States to help our businesses, large and small.

I think it is important to understand there has been a change in the mindset at the Eximbank, and that is that small businesses need to be served. There has been a mindset change already, and we have also put it into this legislation as well, as well as some of the other amendments that were put on at the committee level which were discussed today, to make sure that we are encouraging this Bank to help American businesses, dealing with Americans, giving jobs in America, and giving jobs particularly to the small businesses in our country.

□ 1445

While in the past some of our large companies have dominated and to some degree still do dominate the loan scene with the Eximbank, that is changing very, very rapidly. I think if we can chart that pace of change, we will see that the small businesses are now sharing dramatically.

Plus, I think, from comments of the gentleman from Illinois [Mr. MANZULLO], we saw what it means to the various suppliers to one company where the suppliers are all over the United States of America producing jobs in various parts of the country, and I think that is every bit equally as important.

Would taxpayers save money if we closed Eximbank? That issue has been raised by my colleagues here. The taxpayers would save no money by closing the Eximbank. A very credible study by the Economic Strategy Institute suggested, after 10 years, closing the bank would actually cost the Federal Government $24 billion annually due to the loss of Federal tax revenues that are generated by bank-approved exports and their indirect effect on the Nation's economy. And that is very, very important.

We need to understand all the economic ramifications of this, and I think that has been well studied and well demonstrated.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, just according to the Heritage Foundation, phasing out subsidies will save $2.3 billion over 5 years.

Mr. CASTLE. Mr. Chairman, reclaiming my time, I thank the gentleman from Michigan [Mr. SMITH].

Obviously, that kind of discussion is money that would be foregone, not spent. But it does not use the offset of the revenue that comes in from the jobs which are created, which produces the $24 billion net surplus to the Federal coffers as a result of the tax payments which are made.

We have dealt with the issues of the distorting of free trade, does it do that. No, it does not. It is actually making trade more market driven than it otherwise would be. The so-called tied aid export promotion offered by foreign governments worldwide has declined 75 percent by 1991, a dramatic U.S. policy success. We have heard some mention of that. The gentleman from California [Mr. DREIER] is very concerned about that issue, and I am too.

I think we have had some modicum of success in trying to deal with that issue and drive it down as well as some of the other things that we have done, and I think that is the way that we should go.

We deal with Eximbank's policy on domestic content. The bank currently only finances products at no more than 15 percent foreign content. The bank will only finance the U.S. portion of the export. So we have paid attention to what happens in the United States of America.

We are paying more attention to the environmental guidelines. Quite frankly, I think a lot of this is because of the pressure which has been applied by the Congress of the United States. We are concerned about labor laws. We are concerned about jobs. So we are concerned about environmental laws and regulations in this country. We are raising these issues. And this is one agency which has responded to it and which has come forward and said that we are going to make the changes, and they have started to make the changes and, in my judgment, is worthy of the support of each and every one of us in Congress.

We do have, I believe, 7 amendments which will be coming up here shortly. I hope the Members will listen to the discussion of those 7 amendments, keeping in mind the mannerisms in which this bank has already worked and whether or not we should make substantial changes which could be harmful to it. And then at the end of it all, I hope we can have votes where we need to on the amendments and vote for full support of the reauthorization of the Eximbank for the next 4 years.

Mr. SANDERS. Mr. Chairman, I rise in support of H.R. 1370, the Export-Import Bank reauthorization bill, because I believe that the Export-Import Bank will have been made better as a result of amendments which were added to its authorization bill during its consideration of the Banking Committee.

I am very pleased that the committee approved an amendment that directs the Export-Import Bank [Exim] to establish procedures to ensure that, when selecting firms to provide financial assistance, preference is given to any firm which has shown a commitment to reinvestment and job creation in the United States. Because the purpose of Exim is to support U.S. jobs through exports, the Bank should give preference to U.S. corporations which reinvest and support jobs in the United States, as opposed to corporations which are laying off American workers only to locate production and other facilities in countries which have less expensive, unprotected workforces.

This preference provision gets at, I believe, the heart of the issue of the relationship between the U.S. Government, the taxpayers of this country and corporate America. A number of Federal programs are being criticized, inside and outside Congress, as corporate welfare and these programs are being targeted for spending cuts by people with widely different political philosophies. The Export-Import Bank is one of those programs.

The Journal of Commerce reported on June 12, 1997, that Exim, like the rest of the country, is presently facing a money crunch. The journal reports that Exim: ''faced with strong exporter demand, may run out of money this fiscal year as early as July, officials indicate. Next year, the money squeeze could be worse.'' It seems clear that it is time for the Export-Import Bank to prioritize; this money squeeze should indicate to us that there is actually a need for a system of priorities, such as that in this amendment, to ensure that companies which are the most committed to jobs in the U.S. are given preference over companies that are not.

It is becoming too common for U.S. corporations, including corporations which are supported by Exim, to downsize their U.S. workforce and move their production facilities to take advantage of cheap labor in other countries. According to information from Exim, among the top 25 companies which receive assistance from Exim are Boeing, General Electric, and AT&T. A brief look at the employment practices of these corporations underscores the need for an amendment which gives preference to corporations that show a commitment to employment in the United States.

Boeing is the top recipient of Exim loans and guarantees. Reports indicate that in 1990 Boeing had 155,900 employees. In 1996, it had 103,600 employees—a decline of 52,300 jobs during that period. In other words, it laid off ⅓ of its workforce, despite being the top recipient of Exim aid.

General Electric [GE] is listed as the No. 2 recipient of Exim aid. In 1975 GE had 667,000 American workers. Twenty years later, it had 398,000, a decline of 269,000 jobs. General Electric is well known for its politics of moving GE jobs to anyplace in the world where it can get cheap labor—Mexico, China, and other poor Third World countries.

As for AT&T, in 1995 AT&T laid off 40,000 workers. Interestingly enough, reports show that in that same year, AT&T provided its CEO, Robert Allen, with $15 million in options plus a $11 million grant.

The point here is that the entire approach of Exim in terms of job creation is too narrow. They approach the idea of jobs through exports on a project-by-project basis, and ignore the totality of what the company is doing. This amendment, on the other hand, expands Exim's focus when making the determination as to how many jobs a transaction will support. This amendment directs the Export-Import Bank's to look at the totality of the situation regarding a company's commitment to job creation in the United States, and not just a particular project. In other words, if there is a company that is showing a commitment to job creation and reinvestment in the United States, then that company should receive preference for assistance.

At a time when the Congress is working very hard to balance the budget, it seems only right that if U.S. taxpayer funds are to be used to support U.S. corporations' exports, then incentive and priority must be given to those corporations to reinvest and support jobs in the United States. A preference system, as provided by this amendment, would provide such an incentive to corporations, while at the same time, allowing the Bank some discretion in implementation, to ensure that both the purpose of the Bank and this amendment are fulfilled.

TWO REPRESENTATIVES FROM THE LABOR COMMUNITY ON THE ADVISORY BOARD OF THE EXPORT-IMPORT BANK

The committee also approved an amendment which directs the Export-Import Bank to include upon its advisory committee no less than two representatives from the labor community.

Because the purpose of the Export-Import Bank is to support U.S. jobs through exports, it is important to have two members representing the American workforce on the advisory committee to ensure that the influence of the advisory committee is more evenly balanced for the sake of U.S. workers.

Mr. ARCHER. Mr. Chairman, I rise today in support of reauthorization of the Export-Import Bank of the United States. This institution is absolutely vital for our Nation in order to keep American companies and workers competitive in the world marketplace.

My philosophy on trade has always been that we should take every step possible to make it free and fair for all countries, and that purchases should be made based on quality, price and service. I firmly believe that, under such circumstances, American companies will excel. Unfortunately, as my colleagues know, this is not always the case today. In a perfect world, France, Germany, Japan, England, and our other competitors would not provide unfair advantages to their exporters. If that were the case, we would be having a different debate today. We would not need the Eximbank to level the playing field.

However, the fact remains that the Eximbank finances American exports where commercial financing is simply not available or competitive and where, without Government action, the sale would be lost. The Eximbank does this at a low cost to the taxpayers and with a tremendous positive impact on the American economy. Last year alone, Eximbank supported over 200,000 high quality American jobs.

It is also important to note that the Eximbank is not a giveaway program. The Bank must be repaid every dollar it lends, and has had a default rate of only 1 percent over the last 15 years. This is significantly better than our own commercial banks have performed over the same period of time.

Last week I met with Mr. James Harmon, the new president of Eximbank. Frankly, I was impressed with his determination to institute management and policy changes at the Bank that will make it an even better value for the taxpayers. He has some great innovative ideas that will help make American companies even more competitive in the 21st century. I look forward to working with him and I urge my colleagues to vote against unilateral economic disarmament and vote in favor of reauthorizing the Export-Import Bank.

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

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1370

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

SECTION 1. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''1997'' and inserting ''2001''.

SEC. 2. TIED AID CREDIT FUND AUTHORITY.

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking ''through September 30, 1997''.

(b) Section 10(e) of such Act (12 U.S.C. 635i–3(e)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section.''.

SEC. 3. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking ''1997'' and inserting ''2001''.

SEC. 4. CLARIFICATION OF PROCEDURES FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended—

(1) in the last sentence, by inserting '', after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate,'' after ''President''; and

(2) by adding at the end the following: ''Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.''.

SEC. 5. ADMINISTRATIVE COUNSEL.

Section 3(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) The General Counsel of the Bank shall ensure that the directors, officers, and employees of the Bank have available appropriate legal counsel for advice on, and oversight of, issues relating to ethics, conflicts of interest, personnel matters, and other administrative law matters by designating an attorney to serve as Assistant General Counsel for Administration, whose duties, under the supervision of the General Counsel, shall be concerned solely or primarily with such issues.''.

SEC. 6. ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (8) the following:

''(9)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(''(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

''(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

''(iii) The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.''.

(b) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States submit to the Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 and any recommendations of the advisory committee established pursuant to such section.

SEC. 7. INCREASE IN LABOR REPRESENTATION ON THE ADVISORY COMMITTEE OF THE EXPORT-IMPORT BANK.

Section 3(d)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(2)) is amended—

(1) by inserting ''(A)'' ''(2)''; and

(2) by adding after and below the end the following:

''(B) Not less than 2 members appointed to the Advisory Committee shall be representative of the labor community.''.

SEC. 8. OUTREACH TO COMPANIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

''(I) The Chairman of the Bank shall design and implement a program to provide information about Bank programs to companies which have not participated in Bank programs. Not later than 1 year after the date of the enactment of this subparagraph, the Chairman of the Bank shall submit to the Congress a report on the activities undertaken pursuant to this subparagraph.''.

SEC. 9. FIRMS THAT HAVE SHOWN A COMMITMENT TO REINVESTMENT AND JOB CREATION IN THE UNITED STATES TO BE GIVEN PREFERENCE IN FINANCIAL ASSISTANCE DETERMINATIONS

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)), as amended by section 8 of this Act, is amended by adding at the end the following:

''(J) The Board of Directors of the Bank shall prescribe such regulations and the Bank shall implement such procedures as may be appropriate to ensure that, in selecting from among firms to which to provide financial assistance, preference be given to any firm that has shown a commitment to reinvestment and job creation in the United States.''.

The CHAIRMAN. No amendment shall be in order except those printed in House Report 105–282, which may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

PREFERENTIAL MOTION OFFERED BY MR. MCDERMOTT

Mr. MCDERMOTT. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Washington [Mr. MCDERMOTT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 291, not voting 14, as follows:

[Roll No. 470]

AYES—128

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berry
Bishop
Blagojevich
Bonior
Borski
Boyd
Brown (OH)
Capps
Cardin
Carson
Clayton
Clyburn
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Ensign
Eshoo
Etheridge
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Harman
Hastings (FL)
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Kaptur
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Levin
Lewis (GA)
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Millender-McDonald
Miller (CA)
Mink
Moakley
Neal
Oberstar
Obey
Olver
Owens
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Rangel
Reyes
Rothman
Roybal-Allard
Sanchez
Sawyer
Schumer
Serrano
Shadegg
Sherman
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn

NOES—291

Aderholt
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fawell
Flake
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Manton
Manzullo
Mascara
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Rush
Ryun
Sabo
Salmon

Sanders	Smith (NJ)	Thune
Sandlin	Smith (OR)	Traficant
Sanford	Smith (TX)	Upton
Saxton	Smith, Linda	Visclosky
Scarborough	Snowbarger	Walsh
Schaefer, Dan	Solomon	Wamp
Schaffer, Bob	Souder	Watkins
Scott	Spence	Watts (OK)
Sensenbrenner	Stearns	Weldon (FL)
Sessions	Stokes	Weldon (PA)
Shaw	Stump	Weller
Shays	Sununu	Wexler
Shimkus	Talent	White
Shuster	Tanner	Whitfield
Sisisky	Tauzin	Wicker
Skaggs	Taylor (MS)	Wise
Skeen	Taylor (NC)	Wolf
Skelton	Thomas	Young (AK)
Smith (MI)	Thornberry	Young (FL)

NOT VOTING—14

Archer	Meek	Roukema
DeGette	Nadler	Schiff
Foglietta	Norwood	Tiahrt
Gonzalez	Pallone	Yates
Gutierrez	Price (NC)	

□ 1509

Messrs. LEWIS of Kentucky, WHITE, SANFORD, KINGSTON, and BAESLER changed their vote from ''aye'' to ''no.''

Mr. JOHN, Ms. DELAURO, Mr. PAYNE, Mr. GREEN, Ms. MILLENDER-MCDONALD, Ms. DANNER, and Mr. SERRANO changed their vote from ''no'' to ''aye.''

So the motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. COOKSEY) assumed the chair.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 94. Joint Resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 105–282.

AMENDMENT NO. 1 OFFERED BY MR. EVANS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. EVANS:

At the end of the bill, add the following:

SEC. 10. PREFERENCE IN EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO CHINA TO BE PROVIDED TO COMPANIES ADHERING TO CODE OF CONDUCT.

(a) IN GENERAL.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) PREFERENCE IN ASSISTANCE FOR EXPORTS TO CHINA TO BE PROVIDED TO ENTITIES ADHERING TO CODE OF CONDUCT.—

''(1) PROHIBITIONS.—

''(A) IN GENERAL.—In determining, whether to guarantee, insure, extend credit, or participate in the extension of credit with respect to the export of goods or services destined for the People's Republic of China, the Board of Directors shall give preference to entities that the Board of Directors determines have established and are adhering to the code of conduct set forth in paragraph (2).

''(B) PENALTY FOR VIOLATION.—The Bank shall withdraw any guarantee, insurance, or credit that the Bank has provided, and shall withdraw from any participation in an extension of credit, to an entity with respect to the export of any good or service destined for the People's Republic of China if the Board of Directors determines that the entity is not adhering to the code of conduct set forth in paragraph (2).

''(2) CODE OF CONDUCT.—An entity shall do all of the following in all of its operations:

''(A) Provide a safe and healthy workplace.

''(B) Ensure fair employment, including by—

''(i) avoiding child and forced labor, and discrimination based upon race, gender, national origin, or religious beliefs;

''(ii) respecting freedom of association and the right to organize and bargain collectively;

''(iii) paying not less than the minimum wage required by law or the prevailing industry wage, whichever is higher; and

''(iv) providing all legally mandated benefits.

''(C) Obey all applicable environmental laws.

''(D) Comply with United States and local laws promoting good business practices, including laws prohibiting illicit payments and ensuring fair competition.

''(E) Maintain, through leadership at all levels, a corporate culture—

''(i) which respects free expression consistent with legitimate business concerns, and does not condone political coercion in the workplace;

''(ii) which encourages good corporate citizenship and makes a positive contribution to the communities in which the entity operates; and

''(iii) in which ethical conduct is recognized, valued, and exemplified by all employees.

''(F) Require similar behavior by partners, suppliers, and subcontractors under terms of contracts.

''(G) Implement and monitor compliance with the subparagraphs (A) through (F) through a program that is designed to prevent and detect noncompliance by any employee or supplier of the entity and that includes—

''(i) standards for ethical conduct of employees of the entity and of suppliers which refer to the subparagraphs;

''(ii) procedures for assignment of appropriately qualified personnel at the management level to monitor and enforce compliance;

''(iii) procedures for reporting noncompliance by employees and suppliers;

''(iv) procedures for selecting qualified individuals who are not employees of the entity or of suppliers to monitor compliance, and for assessing the effectiveness of such compliance monitoring;

''(v) procedures for disciplinary action in response to noncompliance;

''(vi) procedures designed to ensure that, in cases in which noncompliance is detected, reasonable steps are taken to correct the noncompliance and prevent similar noncompliance from occurring; and

''(vii) communication of all standards and procedures with respect to the code of conduct to every employee and supplier—

''(I) by requiring all management level employees and suppliers to participate in a training program; or

''(II) by disseminating information orally and in writing, through posting of an explanation of the standards and procedures in prominent places sufficient to inform all employees and suppliers, in the local languages spoken by employees and managers.

''(3) SMALL BUSINESS EXCEPTION.—This subsection shall not apply to an entity that is a small business (within the meaning of the Small Business Act.''.

(b) ANNUAL REPORT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A) is amended by adding at the end the following: ''The Bank shall include in the annual report a description of the actions the Bank has taken to comply with subsection (f) during the period covered by the report.''.

(c) RECEIPTS OF ASSISTANCE FROM THE EXPORT-IMPORT BANK TO BE PROVIDED WITH RESOURCES AND INFORMATION TO FURTHER ADHERENCE TO GLOBAL CODES OF CORPORATE CONDUCT.—The Export-Import Bank of the United States shall work with the Clearinghouse on Corporate Responsibility that is being developed by the Department of Commerce to ensure that recipients of assistance from the Export-Import Bank are made aware of, and have access to, resources and organizations that can assist the recipients in developing, implementing, and monitoring global codes of corporate conduct.

The CHAIRMAN. Pursuant to House Resolution 255, the gentleman from Illinois [Mr. EVANS] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. EVANS].

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

Mr. Chairman, my amendment to the Export-Import Bank reauthorization bill directs the Bank to provide a financial carrot for firms to adopt, adhere, and comply with their own business standards while operating in China. Under this proposal, priority for Export-Import Bank financing would be granted to firms who have pledged to avoid the use of child or prison labor, avoid discrimination based on religion, race, gender, and national origin, respect freedom of association and the right to organize, provide a safe and healthy workplace, obey applicable environmental laws, comply with U.S. and local laws in promoting good business practices, including laws prohibiting illicit payments, and assure that their business partners in China adhere to those same principles.

□ 1515

In order to qualify for this preference, firms must demonstrate that they are making a good faith effort to comply with these principles. The board of directors would evaluate a firm's qualifications based on guidelines outlined in this amendment.

Most companies are aware of these procedures because they are modeled after chapter 8 of the U.S. Federal Sentencing Guidelines relating to organizational defendants. Those guidelines were implemented in 1991 as an incentive for U.S. corporations to prevent and detect violations of U.S. laws within their organization. If a firm implements a compliance system to prevent

corporate crimes such as bribery or fraud, the firm can mitigate any fines incurred in court. As a result, these guidelines have been a powerful incentive for firms to establish ethics codes as well as compliance measures.

The amendment also directs the bank to work with the Commerce Department's Clearinghouse on Corporate Responsibility to ensure that the recipients of financing from the bank are aware of and have access to resources and organizations, such as Businesses for Social Responsibility, that assist businesses in developing, implementing and monitoring codes of conduct.

Good corporate citizenship is being embraced by more and more companies who are realizing that they do not have to sacrifice profits for principles. In fact, an article in the January issue of WorldBusiness notes that the conference board estimates that at least 95 percent of Fortune 500 companies now have such codes.

The time has come to strengthen our international trade and investment policies by fostering and rewarding the private sector's commitment to human and worker rights as well as environmental concerns. In the case of China, it is time to search for new avenues for promoting and fostering democracy and human rights. This amendment ensures that the constructive engagement with China works.

While critics of this amendment claim that this is an administrative burden on the bank, I believe placing priority on human rights and workers' rights is worth the effort. Additionally, in an era of tight budgets, should we not be very careful about spending taxpayers' dollars?

My amendment employs economic incentives to reward good corporate citizenship. No firms should be precluded from receiving financial assistance from the bank for activities in China. Rather, this amendment would ensure that the global corporate responsibility is a part of the strategy for improving and expanding global partnerships and opportunities. It is time that the U.S. invests in an international trade and investment policy that is both a competitive and a positive force abroad, not just a license to exploit workers and children.

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

Mr. CASTLE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Delaware [Mr. CASTLE] is recognized for 5 minutes

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

I do rise in reluctant opposition to this, because I have a great deal of respect for the gentleman who has sponsored it, but I think we really need to understand what we are dealing with here. This is not just a labor vote per se or anything of that nature. We need to know who is opposed to this.

First of all, the State Department of the administration is opposed to this amendment and they state that we encourage companies to adopt and implement voluntary codes of conduct for doing business around the world. In adopting these voluntary codes of conduct, U.S. companies can serve as models, encouraging similar behavior by their partners, suppliers and contractors.

A mandatory, and that is what we are dealing with here, code of conduct is impractical and unworkable. It would be virtually impossible for Ex-Im Bank to monitor compliance. In China alone, there are more than 20,000 United States-China joint ventures.

Mr. Chairman, we are talking about U.S. firms which might export to other countries who have adopted and adhered to a code of conduct for their international operations, as what would be in the amendment. That code would include workplace safety, workers' union and collective bargaining rights, environmental protection, no political coercion of workers, community service, good ethical practices, et cetera. These are standards which are not even public all through America, much less in a lot of countries with which we deal. We basically eliminate a substantial percentage of the present work which goes on in the Ex-Im Bank.

At the same time, I think that we are the leaders through the Ex-Im Bank in having a lot of these practices put in place in some of these other countries for which we deserve credit, but on a voluntary basis, not on a mandatory basis. It imposes extraterritorial enforcement of U.S. labor and environmental laws, which is a substantive question that needs to be raised from a legal point of view. It would impose corporate enforcement requirements that would conflict with local laws. It imposes standards on non-U.S. firms which supply and contract with U.S. firms, and makes U.S. firms liable for contractor/supplier conduct.

As I said, I respect what the gentleman is trying to do and I respect the gentleman, but I believe this amendment is out of place. We are not making foreign policy here.

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

Mr. EVANS. Mr. Chairman, is it my understanding that I have the right to close on this amendment.

The CHAIRMAN. The gentleman from Delaware [Mr. CASTLE] has the right to close.

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

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. FLAKE], the ranking member of the Subcommittee on Domestic and International Monetary Policy.

Mr. FLAKE. Mr. Chairman, I rise to oppose this particular amendment because there is no guidance given as to the nature of the preference that is required here. The amendment appears to reflect a fundamental misconception of the bank's approval process. There is no ranking of transactions within which preferences would be invoked.

This would force Ex-Im Bank to breach its obligations under the full faith and credit of the United States, and would subject the United States Government to lawsuits. Requiring foreign importers to follow U.S. law in their employment practices and other corporate dealings constitutes an inappropriate extraterritorial extension of U.S. law. Requiring U.S. firms to act as if the U.S. laws applied in China, where clearly they do not, both encroaches on the legislative prerogatives of the foreign State and puts such U.S. companies at a severe disadvantage.

The amendment places impossible administrative burdens on the bank, as it is unable to monitor firms who adhere to such codes. This provision would reduce exports to China, thereby worsening the United States trade deficit with China overall.

This provision would result in a loss of trade-related jobs. I ask my colleagues in the House to stand opposed to this amendment and defeat it.

Mr. EVANS. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

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

The arguments are interesting. First off, this gives preference and we are being told it would be too difficult for a U.S. agency, for the Export-Import Bank, with our tax dollars, to determine preference. Well, we do that in many other areas of Federal procurement. I do not think that would be too tough to deal with.

It would put U.S. firms at a severe disadvantage, a severe disadvantage if they avoided child-enforced labor. I do not believe that for a moment. I do not believe that there are any responsible U.S. firms sanctioning the use of child-enforced labor, or discrimination based on religion, race, gender and national origin. So I do not believe that should put our firms at a disadvantage.

These are big corporations. They are getting a very nice gift from the taxpayers through the Export-Import Bank, and we are saying, in return for that, here is a carrot. We will give preference to those firms that comply with this code, and that have an audit done independently and submit that audit to the Export-Import Bank. All the Export-Import Bank staff has to do is look at and verify that the independent audit was done. Yes, there will be a little expense in doing the audit, but nowhere near the subsidy that is being given to those firms by the U.S. taxpayers. It is just to ask some consideration for the use of our dollars by these huge corporations, that they follow some standards of basic international decency.

I heard it would worsen the trade deficit. It is not going to worsen the trade deficit. The trade deficit with China is going through the roof. The goods that are being produced in China that are driving the trade deficit through the

roof are in good part being produced by United States firms in China. It is not going to worsen the deficit in any manner.

There are other problems with our trade policy. The fact that there is no reciprocity, the fact that the Chinese levy a 40-percent tariff on our goods, when we add in the VAT, and we levy 4 percent on goods coming from China, those are the causes of the trade deficit. This would not worsen the trade deficit.

The United States needs to stand for something, and when these corporations are getting U.S. taxpayer dollars, we should stand for something. We are against child enforced labor. We do not want discrimination based on religion, race, gender, and national origin, particularly not promoted by United States firms getting subsidies to operate in China.

Mr. CASTLE. Mr. Chairman, we have one speaker remaining and we have the right to close, so I would yield to the gentleman from Illinois.

The CHAIRMAN. All time for the gentleman from Illinois [Mr. EVANS] has expired.

Mr. CASTLE. Mr. Chairman, I yield the balance of our time to the gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Chairman, first let me say I think the gentleman from Illinois has a very thoughtful series of concerns which are thoroughly valid. However, it would appear, based on administration judgment and those of an awful lot of other people on the trade front that the results of his approach will be counter-productive.

What we will have established if this amendment passes is a carrot-and-stick approach in which the carrots will be given to competitors of U.S. businesses and the stick will be given to the U.S. worker. The fact of the matter is, as we isolate problems in foreign societies, and they are in many countries on many different continents, if our firms cannot deal with imperfect buyers, foreign competitors will be happy to step in and deal with them themselves. Who then gets the carrot? The foreign companies. Who gets the stick? It is the American worker who will not have a job to export a given kind of good.

So I would simply say this is a good, thoughtful, decent perspective that the gentleman from Illinois has brought us, but by the same token, the end result is probably counter-productive.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. EVANS].

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

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

The CHAIRMAN. Pursuant to House Resolution 255, further proceedings on the amendment offered by the gentleman from Illinois [Mr. EVANS] will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 2 printed in House Report 105–282.

AMENDMENT NO. 2 OFFERED BY MR. FRANK OF MASSACHUSETTS.

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment as provided for in the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FRANK of Massachusetts:

At the end of the bill, add the following:

SEC. 10. COMMUNITY WORK REQUIREMENT FOR MEMBERS OF BOARDS OF DIRECTORS OF FIRMS RECEIVING ASSISTANCE FROM THE EXPORT-IMPORT BANK.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) COMMUNITY WORK REQUIREMENT FOR MEMBERS OF BOARDS OF DIRECTORS OF FIRMS RECEIVING ASSISTANCE FROM THE BANK.—

''(1) PROHIBITION.—The Bank shall not provide assistance to a firm during a fiscal year unless each member of the board of directors of the firm agrees to perform not less than 8 hours of work (other than political activities) during each month of the immediately succeeding fiscal year in the community in which the member resides.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to an individual who is—

''(A) at least 62 years of age;

''(B) a person with disabilities;

''(C) working full time, attending school or vocational training, or otherwise complying with work requirements applicable under public assistance programs (as determined by the agencies or organizations responsible for administering such programs);

''(D) otherwise physically impaired, to the extent that the individual is unable to comply with paragraph (1), as certified by a doctor; or

''(E) the primary caregiver to a disabled individual or to a child who has not attained 6 years of age.

''(3) PERSON WITH DISABILITIES DEFINED.—

As used in paragraph (2)(B), the term 'person with disabilities' means a person who—

''(A) has a disability as defined in section 223 of the Social Security Act;

''(B) is determined, pursuant to regulations issued by the Secretary of Housing and Urban Development, to have a physical, mental, or emotional impairment which—

''(i) is expected to be of long-continued and indefinite duration;

''(ii) substantially impedes the ability of the person to live independently; and

''(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

''(C) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.''.

The CHAIRMAN. Pursuant to House Resolution 255, the gentleman from Massachusetts [Mr. FRANK] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I rise out of my respect for this institution to give it the opportunity to rebut an unfair accusation. There have people who argue that a double standard obtains, that when it comes to showing compassion for people who have not fared well in life for one reason or another, we have tended to be hard-hearted, but that when wealthy and powerful people come to our door, we are much more generous.

Recently this House voted to say that if one lives in public housing, if one is simply taking advantage of public housing because one cannot live anywhere else, one is paying what the law requires one to pay in rent, but because of the subsidy inherent in the rent one pays in public housing, if one does not have a job, we will require one to do 8 hours of community service. Even if one has to be taking care of someone who is ill or a child, one will still do 8 hours of community service per month.

Well, I did not agree with that principle, but I believe majority should rule and that is the principle the House has adopted. If one is getting the benefit of living in public housing and one is not otherwise employed, one has to do 8 hours of community service. And to show how conciliatory I am, I think the majority's principle ought to be applied generally.

Now, Mr. Chairman, let me ask, if we had to choose between getting the guarantee of one's business from the Export-Import Bank to make a $100 million sale, or the right to live in Cabrini Green, Chicago, which would one pick? My guess is most people would pick exporting with a guarantee.

I disregard that, however. I am willing to treat them equally. My amendment takes literally, word for word, the language from the bill imposing a community service requirement on people in public housing, and it applies that to members of boards of directors who are similarly situated if their corporation is getting something from the Export-Import Bank.

□ 1530

As I said, because of my respect for this institution, I would not want Members to be laboring under the view that when it comes to the poor we are hard-hearted and tough, but when it comes to the wealthy we roll over and say, here, what do you want? Therefore, I offer this amendment to make that no longer the case.

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

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

Mr. Chairman, I rise in opposition to the amendment. I will also be brief. I

have tried to point out throughout this discussion today that the Export-Import Bank has a very positive financial benefit, not just to members of board of directors or officers of corporations, but to many employees throughout the country, and even the revenues of the United States of America, due to the exports which we have.

The amendment, if it is to be treated seriously, in my judgment may be misplaced. If we are going to have the members of the board of directors do community work, why do we not have the stockholders do community work? They are the true beneficiaries of whatever this particular program may be, or even the workers, it may be argued, if we are going to extend it to this group.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would ask unanimous consent to amend the amendment, if the gentleman would be supportive.

Mr. CASTLE. Mr. Chairman, I do not translate that as support.

Mr. FRANK of Massachusetts. I apologize for taking the gentleman seriously.

Mr. CASTLE. Reclaiming my time, Mr. Chairman, extending it even more, we could talk about farmers who receive agricultural subsidies, Medicare recipients. There are a whole group of people who for various reasons we have elected in Congress to be able to help in some way or another, all of which programs are judged on their merits.

For that reason, I would hope that this is an amendment which could be withdrawn. I think the gentleman does make a valid point. I would hope that the Eximbank is doing a better job of managing how its various loans are handled.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

As I said, I would be prepared to go in to the stockholders as well, but obviously, what we have here is a view that when wealthy people are involved, we ought not to do anything but simply say, is that enough?

Yes, it is true that people who are engaged in exporting are decent people doing a good thing, and so are people who live in public housing. It does not mean that we think these are bad people when we impose this requirement. People who live in public housing are decent, hard-working people, on the whole, who are taking advantage of this program. Public housing, the construction of public housing, the payment of these funds, that has a positive effect on the community. So it is not a badge of dishonor, I hope, to live in public housing.

Similarly, the fact that people who are exporting are doing something good for the country does not take away the fact that they are receiving a significant benefit. The ability to have your exports guaranteed to some extent by the Export-Import Bank is important.

I support the Export-Import Bank. I worked hard in terms of the Raytheon Corporation to help them get guarantees that helped them to win a $1 billion contract. I was very glad. If in return some members of the board of directors would do 8 hours of public service, I think it would be a good thing.

Let me put it this way, we are simply asking people to give back who are able-bodied, younger or middle-aged, who have the capacity to give something back to the community. How this strikes anybody as unreasonable is beyond me. Now, of course, I am quoting the gentleman from New York [Mr. LAZIO] with regard to public housing tenants.

I guess the question is, why is it good for the public housing goose and not for the export-import gander? Why do we say if you are poor, if you are down on your luck and you take advantage of a Federal program that we think is overall a good thing, we are going to make you give us 8 hours of community service, but if you are wealthy enough, respected in the community, and you are a member of the board of directors, you will be the beneficiary of this for nothing, with no competition?

Let us have one rule. If the House votes this down, when we get the bill back, and let me say this is very relevant, because the other body has rejected that 8 hours of community service in that public housing bill. Let me say to the Members, I hope people are prepared to have a certain degree of consistency. If we are going to reject this for people in the Export-Import Bank, let us not impose it on the people in public housing.

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

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, what a silly amendment. People who live in public housing often complain they do so because they do not have a job, or the job that they have does not pay enough to live in housing like many others have the privilege to do. To punish them who are trying to get off of welfare and out of public housing by discouraging the very jobs that they need is silly.

Exports now and imports are creating about 40 percent of all new jobs in this country. In our area, in the Houston region, and where we have a lot of people in public housing, one out of every three new jobs is related to export-import, and they may more than domestic jobs. The Eximbank levels the playing field for American companies and American workers so people in every type of housing have an opportunity to go to work.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the failed premise of that last comment is that if we ask members of board of directors to do 8 hours of community service, they will reject the loan. I reject that. People who serve on the board of directors have a responsibility to the stockholders whom they represent, they have a fiduciary responsibility.

I reject the notion that they would be so mean-spirited and so unwilling to contribute that if they were told they had to do 8 hours of community service, they would refuse the loan.

I was disappointed, I must say to the gentleman. When he began, people who live in public housing, I thought he was going to say people who live in public housing should not throw stones. If he had, I think it would have been a better argument than the one he made.

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

The CHAIRMAN. The gentleman from Delaware [Mr. CASTLE] is recognized for 2½ minutes.

Mr. CASTLE. Mr. Chairman, I would say that the amendment should be defeated. I think it makes a point, but my judgment is that if we carry it out to its nth degree, as I pointed out when I first spoke, we would have a serious problem with how to deal with this, and to add in all the various people who might have to do community work would go too far.

I do not want to denigrate in any way those people who may be in public housing or on welfare who have some work requirements placed on them, which I have always hoped to be a constructive program in terms of helping them develop so they can enter into the workplace. I do not treat that as punitive, perhaps as the sponsor of this amendment would. I would encourage all of us to take the position that this is not something that should be attached to the Exim authorization, and I encourage its defeat.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was rejected.

PRIVILEGED MOTION OFFERED BY MS. DE LAURO

Ms. DELAURO. Mr. Chairman, I offer a privileged motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Ms. DELAURO moves that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentlewoman from Connecticut [Ms. DELAURO].

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

RECORDED VOTE

Ms. DELAURO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 257, not voting 14, as follows:

[Roll No. 471]

AYES—162

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berry
Bishop
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Neal
Obey
Olver
Owens
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Schumer
Serrano
Shadegg
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—257

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Coble
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flake
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stokes
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wolf
Young (AK)

NOT VOTING—14

Berman
Burr
Coburn
Delahunt
Foglietta
Gonzalez
LaTourette
Nadler
Oxley
Pallone
Schiff
Sessions
Wicker
Young (FL)

□ 1556

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

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. EVANS

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 182, not voting 10, as follows:

[Roll No. 472]

AYES—241

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Bono
Borski
Boswell
Boucher
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Coburn
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dingell
Dixon
Doggett
Doyle
Duncan
Edwards
Ehlers
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Goodling
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayworth
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Hunter
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
LaTourette
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pappas
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Pitts
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schumer
Scott
Serrano
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Linda
Souder
Spratt
Stabenow
Stark
Stearns
Strickland
Stupak
Talent
Tauscher
Taylor (MS)
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOES—182

Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Boyd
Brady
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
Dickey
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flake
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Gekas
Gillmor
Goodlatte
Gordon
Goss
Graham

Granger	McCollum	Roukema
Greenwood	McCrery	Ryun
Gutknecht	McDermott	Salmon
Hall (TX)	McKeon	Saxton
Hamilton	Metcalf	Schaefer, Dan
Hansen	Mica	Schaffer, Bob
Hastert	Miller (FL)	Sensenbrenner
Hastings (WA)	Moran (KS)	Shadegg
Herger	Morella	Shaw
Hill	Myrick	Shays
Hilleary	Nethercutt	Skeen
Hobson	Neumann	Smith (OR)
Hoekstra	Northup	Smith (TX)
Hostettler	Norwood	Smith, Adam
Houghton	Nussle	Snowbarger
Hulshof	Oxley	Snyder
Hutchinson	Packard	Solomon
Hyde	Parker	Spence
Istook	Paxon	Stenholm
John	Pease	Stump
Johnson (CT)	Peterson (MN)	Sununu
Johnson, Sam	Peterson (PA)	Tanner
Kasich	Pickering	Tauzin
Kelly	Pickett	Taylor (NC)
Kim	Pombo	Thomas
Klug	Porter	Thornberry
Knollenberg	Portman	Tiahrt
Kolbe	Pryce (OH)	Walsh
LaHood	Radanovich	Watkins
Latham	Ramstad	Watts (OK)
Lazio	Redmond	Weldon (FL)
Leach	Regula	Weldon (PA)
Lewis (KY)	Riggs	White
Linder	Riley	Whitfield
Livingston	Roemer	Wicker
Lucas	Rogan	Young (AK)
Manzullo	Rogers	

NOT VOTING—10

Brown (CA)	Nadler	Stokes
Foglietta	Pallone	Young (FL)
Gonzalez	Schiff	
Lewis (CA)	Sessions	

□ 1613

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

Messrs. GILCHREST, QUINN, DAVIS of Illinois, and BONO changed their vote from ''no'' to ''aye''.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–282.

AMENDMENT NO. 3 OFFERED BY MR. LAFALCE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. LAFALCE:

At the end of the bill, add the following:

SEC. 10. RENAMING OF BANK AS THE UNITED STATES EXPORT BANK.

(a) AMENDMENTS TO THE EXPORT-IMPORT BANK ACT OF 1945.—

(1) The first section of the Export-Import Bank Act of 1945 (12 U.S.C. 635 note) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'United States Export Bank Act of 1945'.''.

(2) The following provisions of such Act are amended by striking ''Export-Import Bank of the United States'' and inserting ''United States Export Bank'':

(A) Section 2(a)(1) (12 U.S.C. 635(a)(1)).

(B) Section 3(a) (12 U.S.C. 635a(a)).

(C) Section 3(b) (12 U.S.C. 635a(b)).

(D) Section 3(c)(1) (12 U.S.C. 635a(c)(1)).

(E) Section 4 (12 U.S.C. 635b).

(F) Section 5 (12 U.S.C. 635d).

(G) Section 6(a) (12 U.S.C. 635e(a)).

(H) Section 7 (12 U.S.C. 635f).

(I) Section 8(a) (12 U.S.C. 635g(a)).

(J) Section 9 (12 U.S.C. 635h).

(3) The following provisions of such Act are amended by striking ''Export-Import Bank'' any place its appears and inserting ''United States Export Bank'':

(A) Section 2(b)(1)(A) (12 U.S.C. 635(b)(1)(A)).

(B) Section 3(c)(3) (12 U.S.C. 635a(c)(3)).

(b) DEEMING RULES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the Export-Import Bank of the United States is deemed to be a reference to the United States Export Bank, and any reference in any law, map, regulation, document, paper, or other record of the United States to the Export-Import Bank Act of 1945 is deemed to be a reference to the United States Export Bank Act of 1945.

The CHAIRMAN. Pursuant to House Resolution 255, the gentleman from New York [Mr. LAFALCE] and a Member opposed each will control 5 minutes.

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

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

Mr. Chairman, the purpose of my amendment is very simple. It is to change the name of the bank so that we could help clarify the function and purpose of the bank.

The amendment would change the name of the bank to the United States Export Bank. It would eliminate the confusion that exists as to what the bank does. In fact, the bank imports nothing. In fact, the bank does not assist in the importation of anything. The bank has not imported anything or supported any imports since its very earliest days.

When it was named Eximbank at the time of its chartering, the bank sought to support trade with Russia, which at that time did not have hard currency. The bank then sought to arrange barter trade with Russia, and hence the name Export-Import Bank. That function, though, lasted only a few years. For approximately 60 years, since those early years, the only function of the Export-Import Bank of the United States has been to assist exporting by U.S. businesses.

My amendment would simply change the name to the United States Export Bank, a simple change that Eximbank supports and I believe the chairman of the subcommittee and the chairman of the full committee will support, also. This name change will clearly indicate that the Bank's purpose is to support U.S. exporters and workers whose jobs depend on exports.

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

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. LAFALCE].

Mr. Chairman, I could not disagree with my colleague, the gentleman from New York [Mr. LAFALCE], who stated that this would be a better name because it would more clarify what the Export-Import Bank does.

In fact, I would think that if we want to clarify what the Export-Import Bank does, it would be better to call it the American Import Bank or Subsidy of Foreign Imports into the United States Bank.

These businesses that are getting subsidized by our tax dollars, they are not saying, please subsidize my company so I can go over there and sell socks or refrigerators or some type of consumer items. That is a total myth that has been perpetuated in this argument, especially in arguments concerning trade with China.

What is happening instead are corporations, by and large, who want to set up manufacturing units overseas, especially in dictatorships, I might add, like Communist China and Vietnam and elsewhere, go to the Export-Import Bank and are receiving guaranteed loans and subsidies in order to set up a manufacturing unit, which will take advantage of people who have no right to set up unions, no right to protect their own interests, standards that are way below those of the United States.

So we subsidize them, creating a manufacturing unit by using taxpayer dollars. And then what happens? Those manufacturing units produce goods and services that are imported into the United States.

Yes, we should clarify that. We should clarify this so that American people know their tax dollars are being used to subsidize the competition for their own jobs in dictatorships overseas. And, yes, there are several companies that, yes, do indeed have their exports subsidized. That is in the aerospace industry. There are some situations where that exists. I acknowledge that. But that is not the majority of what is going on here.

Even with those loans to the aerospace industry, quite often demands are made in those other countries that we set up manufacturing units so that part of the airplanes that are being sold in those countries are produced in China and elsewhere. So what we end up doing is subsidizing the development of industries overseas with our tax dollars.

This has got to stop. If we want to clarify anything here, it should be the U.S. Government should not be subsidizing anybody who is setting up a manufacturing unit overseas, especially in dictatorships.

So let us clarify it, yes, and change the name to not the Export-Import Bank, but to the bank that subsidizes imports into the United States.

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

Mr. LaFALCE. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] has 3 minutes remaining.

Mr. LaFALCE. Mr. Chairman, I would merely make the comment that I think the gentleman from California [Mr. ROHRABACHER] is confused between the functions and activities of this Bank and the OPIC, the Overseas Private Investment Corp.

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

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

Mr. Chairman, I am not confused. And the fact is OPIC does offer private insurance for investment overseas. The Export-Import Bank is involved with these things as well.

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

Mr. LAFALCE. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Chairman, let me just say on behalf of the Committee on Banking and Financial Services that I consider this to be a very constructive amendment. The new name well-defines the institution that we are talking about that is the subject of legislation on the floor today.

I have some pains that the current name, which has such a fine general reputation, may go by the boards. But I think this is a very constructive and helpful amendment.

Finally, let me stress as carefully as I can that the currently named Export-Import Bank only subsidizes the sales of U.S. goods and services abroad. There is no mandate of the bank to construct any kind of American company on anybody else's shores. It is simply to support goods and services produced in the United States to be sold abroad.

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

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] has 2¼ minutes remaining.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

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

Mr. STEARNS. Mr. Chairman, I rise in opposition to the amendment.

Mr. LAFALCE. Mr. Chairman, how much timed do I have remaining?

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] has 2 minutes remaining.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. WATKINS].

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

Mr. WATKINS. Mr. Chairman, I rise in support of the LaFalce amendment.

I rise for two reasons. I am from a rural area of the heartland of America, and we have not utilized the Export-Import Bank very much. I think one of the major things is the confusing name. I think the gentleman from New York [Mr. LAFALCE] has a change here that might improve it.

I have talked to them at the Export-Import Bank on numerous occasions about trying to involve more of the smaller towns, smaller businesses and industries across this country. I think a name change would help. I think named the United States Export Bank would better describe the purpose and activities of the bank.

Second, I am in support of it because the United States economic future is going to depend a great deal on our involvement in exporting. In fact, some economists have said that 90 percent of our future economic growth has got to come from export trade.

I think we need to do everything within our power to try to help our businesses and industries and agriculture be able to export more, and I think this would clarify and encourage economic enterprises to seek assistance. By changing the name, it would be less confusing to a lot of people out there in the business and agriculture world that want to participate in the global economy.

Mr. ROHRABACHER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] has 2 minutes remaining.

Mr. ROHRABACHER. Mr. Chairman, do I have the right to close?

The CHAIRMAN. The gentleman is not on the committee. The gentleman from New York [Mr. LAFALCE] has the right to close.

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

Mr. Chairman, I, of course, philosophically would believe that the Federal Government should not be involved in taking our taxpayers' dollars and using it for selected companies who are planning to do business overseas.

It is particularly repugnant, Mr. Chairman, for us to be loaning any money for people who want to invest in manufacturing units overseas who are receiving benefits from not the Export-Import Bank, but from OPIC and other government institutions.

I have two amendments that are coming up on Export-Import Bank, one which would prevent the Export-Import Bank from subsidizing the People's Liberation Army in China or any other government-owned entities and would not permit us to, basically, subsidize business in dictatorships.

But this idea that American business needs to have subsidies in big companies in order to sell their products overseas is a misnomer, and certainly we need to clarify that. In many, many cases, what we really are talking about is instead of subsidizing our exports, trying to make it possible facilitating exports. We are actually facilitating the building of manufacturing units which uses low-cost labor to ship things back into the United States.

That is why we have such a heinous situation with China. Because our people will go over to China, they will build a manufacturing unit there with subsidization from the Federal Government, the manufacturing unit will then use this basically slave labor over there and import these goods at a 3- or 4-percent tariff. The goods over there, however, when we want to sell our goods directly in China, there is about a 30- or 40-percent tariff when we want to sell our goods over there.

The most important thing that we could be doing is not subsidizing big corporations to the Export-Import Bank, or OPIC, or whatever. Instead, what we should be doing is knocking down impediments to our people doing business, like, for example, trying to eliminate their tariffs.

So I would oppose this measure. I do believe it does not clarify anything.

Mr. LAFALCE. Mr. Chairman, I yield 45 seconds to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, I just want to clarify for the House and my colleagues that what we heard about Eximbank is not the case. It is not subsidizing any foreign manufacturing.

What it is doing is allowing U.S. companies, the working men and women of this country, to be employed to assist in financing the sale of U.S. goods overseas. Most of the Exim funds for United States goods that go into China are to assist with financing Boeing aircraft, who must compete with Airbus and other international competitors. Boeing employs thousands of U.S. workers in the United States with the aid of this Exim Program.

I think there is great confusion about what this program does. But in fact, Exim does not do the things that are alleged. It allows American men and women to get high paying jobs and to compete in the international market where we find the opportunities for tomorrow, and those are the facts. We can not relegate our next generation to minimum wage jobs—we must not back away from supporting U.S. small and large business in selling their goods in a tough international marketplace.

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

Mr. Chairman, I remind all my colleagues that my amendment to change the name of the Bank to comport with reality; that is, the United States Export Bank, is supported by the Bank and is supported by the gentleman from Iowa [Mr. LEACH], the chairman of the full committee, the gentleman from Delaware [Mr. CASTLE], chairman of the subcommittee, and I hope virtually by all the Members of this body.

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

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 56, not voting 15, as follows:

[Roll No. 473]

AYES—362

Abercrombie
Ackerman
Allen
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pappas
Parker
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Tierney
Torres
Towns
Turner
Upton
Velazquez
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOES—56

Aderholt
Andrews
Armey
Barr
Berry
Bono
Burr
Burton
Callahan
Cannon
Chabot
Coble
Cox
Davis (VA)
DeFazio
DeLay
Doolittle
Duncan
Ganske
Goode
Hall (TX)
Hastert
Hilleary
Houghton
Jenkins
Johnson, Sam
Kanjorski
Kingston
Largent
McInnis
McIntosh
McKinney
Mink
Nethercutt
Neumann
Packard
Paul
Paxon
Pombo
Radanovich
Rogan
Rohrabacher
Royce
Scarborough
Schaefer, Dan
Schaffer, Bob
Shadegg
Snyder
Solomon
Stearns
Stump
Thune
Traficant
Vento
Wamp
Whitfield

NOT VOTING—15

Chenoweth
Cunningham
Gilchrest
Gonzalez
Gordon
Holden
Lucas
Moakley
Nadler
Pallone
Pelosi
Rangel
Schiff
Smith, Linda
Young (FL)

☐ 1649

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

Mr. NUSSLE and Mr. RILEY changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Chairman, I missed nine recorded votes while I was in New Jersey bringing my newborn daughter and wife home from the hospital today. If I had been present, my vote would have been cast as follows:

Rollcall vote 465, motion to adjourn, I would have voted ''yes.''

Rollcall vote 466, the Journal, I would have voted ''no.''

Rollcall vote 467, the rule for H.R. 2203 conference report, I would have voted ''yes.''

Rollcall vote 468, energy and water appropriations conference report, I would have voted ''yes.''

Rollcall vote 469, previous question for House Resolution 255, I would have voted ''yes.''

Rollcall vote 470, motion to rise, I would have voted ''yes.''

Rollcall vote 471, motion to rise, I would have voted ''yes.''

Rollcall vote 472, the Evans amendment to H.R. 1370, I would have voted ''yes.''

Rollcall vote 473, the LaFalce amendment to H.R. 1370, I would have voted ''yes.''

Mr. CASTLE. Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. CALVERT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1370), to reauthorize the Export-Import Bank of the United States, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2378, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998

Mr. KOLBE. Mr. Speaker, pursuant to the order of the House of Monday, September 29, 1997, I call up the conference report on the bill (H.R. 2378) 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, 1998 and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the order of the House of Monday, September 29, 1997, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 29, 1997, at page H8137.)

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] and the gentleman from Maryland [Mr. HOYER] each will control 30 minutes.

The Chair recognizes the gentleman from Arizona [Mr. KOLBE].

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 2378, and that I may include tabular and extraneous material.

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

There was no objection.

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

Mr. Speaker, I am pleased to rise today in support of the conference report on Treasury, Postal Service and General Government. This is a very good conference report and one which represents a great success on all sides. It provides $12.7 billion for agencies that come under this Subcommittee's jurisdiction and, for the first time in 3 years, an increase in funding. I would point out that it is in strict compliance with the 1997 Balanced Budget Agreement.

The actions taken by the conferees boost support for both drug and law enforcement programs. The bill puts us on track for a drug-free America by the

year 2001. In total, the conferees have recommended $3.9 billion, $737 million over 1997, that is a 24-percent increase, for the Customs Service, ATF, the Secret Service, the Financial Crimes Enforcement Network, the Office of National Drug Control Policy.

Specifically, let me just highlight a couple of the specific items in this bill in the area of law enforcement. Mr. Speaker, we provide $1.6 billion for Customs to combat drugs that come in through our borders and to facilitate passenger and cargo processing. So both the interdiction and the processing of legitimate traffic across the border are accommodated. We provide an additional $8.4 million for the next stage of Operation Hardline, an initiative that was started years ago to harden our borders against drugs, and $4.5 million to equip Customs helicopters with night vision equipment.

There is $195 million for the drug czar's anti-drug media campaign aimed at youth, $20 million more than the President had proposed. We believe this is a major step toward a comprehensive campaign for a drug-free America. There is $10 million for the recently authorized Drug Free Communities Act; $7.3 million for the Office of National Drug Control Policy's efforts to combat the dangers and growing problems of methamphetamine use in the U.S.; $13 million to provide counter drug technology assistance to State and local law enforcement; $159 million for the High Intensity Drug Trafficking Areas that I know many Members are concerned about; and $5.2 million for ballistic imaging systems for State and local law enforcement.

In other areas outside of purely law enforcement, we also continued the Committee on Appropriation's aggressive oversight of the IRS, prohibiting the IRS from spending more money on its computer modernization programs without congressional approval. By maintaining restrictions on the IRS's use of money absent a solid set of blueprints or an architectural plan for how that is going to be spent, the conference committee ensures that there is not going to be even 1 more year of wasteful spending on the computer systems for the Internal Revenue Service.

The conferees also make year 2000 computer compliance a priority within the IRS, providing $377 million for Century Date Conversion efforts.

The conferees also include requirements ensuring that IRS is in compliance with the Taxpayer Bill of Rights.

Finally, the agreement ends taxpayer subsidy of political events at the White House. In conjunction with the White House, we have worked out language that includes a new accounting mechanism for the Executive Residence. The agreement requires not only that expenses of all political events be carefully tracked, but that all of these events be paid for up front so that taxpayers are not tagged with the cost of, even for 1 day, fronting the money for political events in the White House, no matter which party is in the White House.

I strongly urge my colleagues to support this conference agreement. Not only are there no more free coffees at the White House, but the drug lords are not going to like this bill one bit. I think it is a bill that every Member of this body can support and support enthusiastically.

Mr. Speaker, I insert the following:

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1998 (H.R. 2378)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE TREASURY						
Departmental Offices	112,048,000	116,314,000	113,410,000	114,794,000	114,771,000	+2,723,000
Counterterrorism fund	15,000,000	.....	.....	.....	.....	-15,000,000
Supplemental funding (P.L. 105-18)	1,950,000	.....	.....	.....	.....	-1,950,000
Automation Enhancement	27,100,000	29,389,000	25,989,000	29,389,000	25,889,000	-1,211,000
(Delay in obligation)	.....	.....	.....	(15,000,000)	.....	.....
Office of Inspector General	29,770,000	31,333,000	29,927,000	29,719,000	29,719,000	-51,000
Office of Professional Responsibility	1,500,000	1,625,000	1,500,000	1,250,000	1,250,000	-250,000
Treasury Buildings and Annex Repair and Restoration	28,213,000	12,484,000	6,484,000	10,484,000	10,484,000	-17,729,000
Financial Crimes Enforcement Network	22,387,000	23,006,000	22,835,000	22,835,000	22,835,000	+448,000
Department of the Treasury Forfeiture Fund (limitation on availability of deposits)	10,000,000	9,500,000	.....	.....	.....	-10,000,000
Violent Crime Reduction Programs:						
Bureau of Alcohol, Tobacco and Firearms	36,595,000	42,378,000	21,528,000	24,023,000	19,421,000	-17,174,000
Departmental Offices	18,300,000	.....	.....	.....	.....	-18,300,000
Financial Crimes Enforcement Network	1,000,000	3,000,000	1,000,000	3,000,000	1,000,000	.....
United States Secret Service	20,000,000	20,664,000	16,837,000	21,178,000	15,731,000	-4,269,000
ONDCP - HIDTA	13,105,000	.....	5,000,000	8,500,000	23,200,000	+10,095,000
Gang Resistance Education and Training: Grants	8,000,000	8,000,000	8,000,000	10,000,000	10,000,000	+2,000,000
Federal Law Enforcement Training Center	.....	24,058,000	1,000,000	19,619,000	1,000,000	+1,000,000
United States Customs Service	.....	20,100,000	43,635,000	44,635,000	60,648,000	+60,648,000
Total, Violent Crime Reduction Programs	97,000,000	118,200,000	97,000,000	130,955,000	131,000,000	+34,000,000
Federal Law Enforcement Training Center:						
Salaries and Expenses	56,185,000	65,663,000	64,663,000	64,663,000	64,663,000	+8,478,000
Acquisition, Construction, Improvements, and Related Expenses	21,584,000	11,111,000	32,548,000	13,930,000	32,548,000	+10,964,000
Total, Federal Law Enforcement Training Center	77,769,000	76,774,000	97,211,000	78,593,000	97,211,000	+19,442,000
Interagency Law Enforcement:						
Interagency crime and drug enforcement 1/	.....	73,794,000	73,794,000	73,794,000	73,794,000	+73,794,000
Financial Management Service	196,518,000	202,560,000	199,675,000	202,490,000	202,490,000	+5,972,000
Reimburse Federal Reserve Bank (indefinite)	.....	122,000,000	.....	.....	.....	.....
Bureau of Alcohol, Tobacco and Firearms:						
Salaries and Expenses	460,394,000	496,954,000	478,649,000	473,490,000	478,934,000	+18,540,000
Laboratory facilities	6,978,000	55,022,000	55,022,000	55,022,000	55,022,000	+48,044,000
Total, Bureau of Alcohol, Tobacco and Firearms	467,372,000	551,976,000	533,671,000	528,512,000	533,956,000	+66,584,000
United States Customs Service:						
Salaries and Expenses	1,549,585,000	1,566,826,000	1,526,078,000	1,551,028,000	1,522,165,000	-27,420,000
Customs facilities, construction, improvements	.....	5,512,000	.....	.....	.....	.....
Operation and Maintenance, Air and Marine Interdiction Programs	83,363,000	92,758,000	97,258,000	92,758,000	92,758,000	+9,395,000
Customs Services at Small Airports (to be derived from fees collected)	2,406,000	2,406,000	2,406,000	2,406,000	2,406,000	.....
Harbor Maintenance Fee Collection	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	.....
Total, United States Customs Service	1,638,354,000	1,670,502,000	1,628,742,000	1,649,192,000	1,620,329,000	-18,025,000
Bureau of the Public Debt	165,335,000	169,426,000	169,426,000	169,426,000	169,426,000	+4,091,000
Internal Revenue Service:						
Processing, Assistance, and Management	1,790,288,000	2,943,174,000	2,915,100,000	2,943,174,000	2,925,874,000	+1,135,586,000
Tax Law Enforcement	4,104,211,000	3,153,722,000	3,108,300,000	3,153,722,000	3,142,822,000	-961,389,000
Rescission	.....	.....	-14,500,000	.....	-32,000,000	-32,000,000
Earned Income Tax Credit Compliance Initiative	.....	107,105,000	.....	.....	138,000,000	+138,000,000
Information Systems	1,323,075,000	1,272,487,000	1,292,500,000	1,272,487,000	1,272,487,000	-50,588,000
Rescission	-174,447,000	.....	.....	.....	.....	+174,447,000
Information technology investments	.....	500,000,000	326,000,000	325,000,000	325,000,000	+325,000,000
Net total, Internal Revenue Service	7,043,127,000	7,976,488,000	7,627,400,000	7,694,383,000	7,772,183,000	+729,056,000
United States Secret Service:						
Salaries and Expenses	531,288,000	575,971,000	555,736,000	570,809,000	564,348,000	+33,060,000
Rescission	-7,600,000	.....	.....	.....	.....	+7,600,000
Acquisition, Construction, Improvement, and Related Expenses	37,365,000	9,176,000	5,775,000	9,176,000	8,799,000	-28,566,000
Total, United States Secret Service	561,053,000	585,147,000	561,511,000	579,985,000	573,147,000	+12,094,000
Net total, title I, Department of the Treasury	10,494,496,000	11,770,518,000	11,188,575,000	11,315,801,000	11,378,484,000	+883,988,000

1/ Funded in CJSJ bill in FY 1997.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1998 (H.R. 2378) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II - POSTAL SERVICE						
Payments to the Postal Service						
Payment to the Postal Service Fund	85,080,000	86,274,000	86,274,000	86,274,000	86,274,000	+1,194,000
Supplemental funding (P.L. 105-18)	5,383,000	.....	.....	.....	.....	-5,383,000
Payment to the Postal Service Fund for Nonfunded Liabilities	35,536,000	34,850,000	34,850,000	34,850,000	.....	-35,536,000
Total, title II, Postal Service	125,999,000	121,124,000	121,124,000	121,124,000	86,274,000	-39,725,000
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT						
Compensation of the President and the White House Office:						
Compensation of the President	250,000	250,000	250,000	250,000	250,000	.....
Salaries and Expenses	40,193,000	51,199,000	51,199,000	51,199,000	51,199,000	+11,006,000
Executive Residence at the White House:						
Operating Expenses	7,827,000	8,045,000	8,045,000	8,045,000	8,045,000	+218,000
White House Repair and Restoration	.....	200,000	200,000	200,000	200,000	+200,000
Special Assistance to the President and the Official Residence of the Vice President:						
Salaries and Expenses	3,280,000	3,378,000	3,378,000	3,378,000	3,378,000	+98,000
Operating expenses	324,000	334,000	334,000	334,000	334,000	+10,000
Council of Economic Advisers	3,439,000	3,542,000	3,542,000	3,542,000	3,542,000	+103,000
Office of Policy Development	3,867,000	3,983,000	3,983,000	3,983,000	3,983,000	+116,000
National Security Council	6,648,000	6,648,000	6,648,000	6,648,000	6,648,000	.....
Office of Administration	26,100,000	28,883,000	28,883,000	28,883,000	28,883,000	+2,783,000
Office of Management and Budget	55,573,000	57,240,000	57,240,000	57,240,000	57,440,000	+1,867,000
Office of National Drug Control Policy	35,838,000	36,016,000	43,516,000	36,016,000	35,016,000	-822,000
Unanticipated Needs	.....	1,000,000	.....	.....	.....	.....
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	127,102,000	140,207,000	146,207,000	140,207,000	159,007,000	+31,905,000
Special forfeiture fund	112,900,000	175,000,000	205,000,000	145,300,000	211,000,000	+98,100,000
Total, title III, Executive Office of the President and Funds Appropriated to the President	423,341,000	515,925,000	558,425,000	485,225,000	568,925,000	+145,584,000
TITLE IV - INDEPENDENT AGENCIES						
Committee for Purchase from People Who Are Blind or Severely Disabled	1,800,000	1,940,000	1,940,000	1,940,000	1,940,000	+140,000
Federal Election Commission	28,165,000	34,216,000	34,550,000	29,000,000	31,650,000	+3,485,000
Federal Labor Relations Authority	21,588,000	22,039,000	21,803,000	22,039,000	22,039,000	+451,000
General Services Administration:						
Federal Buildings Fund:						
Appropriation	400,544,000	84,000,000	.....	.....	.....	-400,544,000
Limitations on availability of revenue:						
Construction & acquisition of facilities	(657,711,000)	.....	.....	.....	.....	(-657,711,000)
Environmental cleanup activities	(20,000,000)	.....	.....	.....	.....	(-20,000,000)
Consolidated Federal Law Enforcement Bldg	(81,000,000)	.....	.....	.....	.....	(-81,000,000)
Repairs and alterations	(639,000,000)	(434,000,000)	(300,000,000)	(350,000,000)	(300,000,000)	(-339,000,000)
Installment acquisition payments	(173,075,000)	(142,542,000)	(142,542,000)	(142,542,000)	(142,542,000)	(-30,533,000)
Operations and rental of space	.....	.....	(3,607,129,000)	.....	.....	.....
Rental of space	(2,343,795,000)	(2,275,340,000)	.....	(2,275,340,000)	(2,275,340,000)	(-68,455,000)
Building Operations	(1,552,651,000)	(1,331,789,000)	.....	(1,331,789,000)	(1,331,789,000)	(-220,862,000)
Repayment of Debt	(88,312,000)	(105,720,000)	(105,720,000)	(105,720,000)	(105,720,000)	(+17,408,000)
Previously appropriated activities	.....	(680,543,000)	(680,543,000)	(680,543,000)	(680,543,000)	(+680,543,000)
Total, Federal Buildings Fund	400,544,000	84,000,000	.....	.....	.....	-400,544,000
(Limitations)	(5,555,544,000)	(4,969,934,000)	(4,835,934,000)	(4,885,934,000)	(4,835,934,000)	(-719,610,000)
Policy and Operations	110,173,000	104,487,000	107,487,000	104,487,000	107,487,000	-2,686,000
Office of Inspector General	33,863,000	33,870,000	33,870,000	33,870,000	33,870,000	+7,000
Allowances and Office Staff for Former Presidents	2,180,000	2,250,000	2,208,000	2,208,000	2,208,000	+28,000
Expenses, presidential transition	5,600,000	.....	.....	.....	.....	-5,600,000
Rescission (P.L. 105-18)	-5,600,000	.....	.....	.....	.....	+5,600,000
Total, General Services Administration	546,760,000	224,607,000	143,565,000	140,565,000	143,565,000	-403,195,000
John F. Kennedy Assassination Record Review Board	2,150,000	1,600,000	1,600,000	1,600,000	1,600,000	-550,000
Merit Systems Protection Board:						
Salaries and Expenses	23,923,000	24,450,000	25,290,000	24,810,000	25,290,000	+1,367,000
(Limitation on administrative expenses)	(2,430,000)	(2,430,000)	(2,430,000)	(2,430,000)	(2,430,000)	.....
Morris K. Udall scholarship and excellence in national environmental policy foundation	.....	2,000,000	2,000,000	.....	1,750,000	+1,750,000

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1998 (H.R. 2378) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
National Archives and Records Administration:						
Operating expenses	196,963,000	206,479,000	202,354,000	206,479,000	205,166,500	+8,203,500
Reduction of debt	-4,012,000	-4,012,000	-4,012,000	-4,012,000	-4,012,000	.....
Archives Facilities and Presidential Libraries:						
Repairs and Restoration	16,229,000	6,650,000	10,650,000	13,650,000	14,650,000	-1,579,000
National Historical Publications and Records Commission:						
Grants program	5,000,000	4,000,000	5,500,000	5,000,000	5,500,000	+500,000
Total, National Archives and Records Administration	214,180,000	213,117,000	214,492,000	221,117,000	221,304,500	+7,124,500
Office of Government Ethics	8,078,000	8,265,000	8,078,000	8,265,000	8,265,000	+187,000
Office of Personnel Management:						
Salaries and Expenses	87,286,000	85,350,000	85,350,000	85,350,000	85,350,000	-1,936,000
(Limitation on administrative expenses)	(94,736,000)	(91,236,000)	(91,236,000)	(91,236,000)	(91,236,000)	(-3,500,000)
Office of Inspector General	960,000	960,000	960,000	960,000	960,000	.....
(Limitation on administrative expenses)	(8,645,000)	(8,645,000)	(8,645,000)	(8,645,000)	(8,645,000)	.....
Government Payment for Annuitants, Employees Health Benefits	4,059,000,000	4,338,000,000	4,338,000,000	4,338,000,000	4,338,000,000	+279,000,000
Government Payment for Annuitants, Employee Life Insurance	33,000,000	32,000,000	32,000,000	32,000,000	32,000,000	-1,000,000
Payment to Civil Service Retirement and Disability Fund	7,989,000,000	8,336,000,000	8,336,000,000	8,336,000,000	8,336,000,000	+347,000,000
Total, Office of Personnel Management	12,169,246,000	12,792,310,000	12,792,310,000	12,792,310,000	12,792,310,000	+623,064,000
Office of Special Counsel	8,116,000	8,450,000	8,116,000	8,450,000	8,450,000	+334,000
United States Tax Court	33,781,000	34,293,000	33,921,000	34,293,000	33,921,000	+140,000
Total, title IV, Independent Agencies	13,057,787,000	13,367,287,000	13,287,665,000	13,284,389,000	13,292,084,500	+234,297,500
(Limitation on administrative expenses)	(5,661,355,000)	(5,072,245,000)	(4,938,245,000)	(4,988,245,000)	(4,938,245,000)	(-723,110,000)
Net grand total	24,101,623,000	25,774,854,000	25,155,789,000	25,206,539,000	25,325,767,500	+1,224,144,500
Appropriations	(24,276,337,000)	(25,774,854,000)	(25,170,289,000)	(25,206,539,000)	(25,357,767,500)	(+1,081,430,500)
Rescissions	(-182,047,000)	.....	(-14,500,000)	.....	(-32,000,000)	(+150,047,000)
Emergency funding (P.L. 105-18)	(7,333,000)	.....	.....	.....	.....	(-7,333,000)
(Limitations)	(5,661,355,000)	(5,072,245,000)	(4,938,245,000)	(4,988,245,000)	(4,938,245,000)	(-723,110,000)
Scorekeeping adjustments:						
Bureau of The Public Debt (Permanent)	129,000,000	144,000,000	144,000,000	144,000,000	144,000,000	+15,000,000
Ethics Reform Act Adjustment	-6,000,000	.....	.....	-2,000,000	.....	+6,000,000
Gold and platinum bullion	-12,000,000	.....	.....	.....	.....	+12,000,000
Section 409	1,000,000	.....	.....	.....	.....	-1,000,000
Federal Savings & Loan Insurance Corp. (Sec. 638)	26,100,000	34,000,000	.....	.....	34,000,000	+7,900,000
Emergency funding for anti-terrorism	-275,328,000	.....	.....	.....	.....	+275,328,000
Trust fund budget authority	105,700,000	102,311,000	102,311,000	102,311,000	102,311,000	-3,389,000
US Mint revolving fund	.....	30,000,000	30,000,000	30,000,000	30,000,000	+30,000,000
Sallie Mae	.....	1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Federal buildings fund	.....	.....	-50,000,000	.....	-50,000,000	-50,000,000
Total, scorekeeping adjustments	-31,528,000	311,311,000	227,311,000	275,311,000	261,311,000	+292,839,000
Total mandatory and discretionary	24,070,095,000	26,086,165,000	25,383,100,000	25,481,850,000	25,587,078,500	+1,516,983,500
Mandatory	12,245,786,000	12,885,100,000	12,885,100,000	12,885,100,000	12,850,250,000	+604,464,000
Discretionary:						
Crime trust fund	97,000,000	118,200,000	97,000,000	130,955,000	131,000,000	+34,000,000
General purposes	11,727,309,000	13,082,865,000	12,401,000,000	12,465,795,000	12,605,828,500	+878,519,500
Total, Discretionary	11,824,309,000	13,201,065,000	12,498,000,000	12,596,750,000	12,736,828,500	+912,519,500

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

□ 1700

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

Mr. Speaker, I rise in support of this conference report. The chairman has outlined well the provisions of this conference report. I think all of the Members on my side of the aisle, as well as all of the Members on the chairman's side of the aisle, can be pleased with the fact that this bill addresses significant law enforcement problems: fighting drugs, fighting crime, providing funds to the ONDCP to make sure that our young people know of the dangers of drugs, and convince them to stay off and to just say no, as Mrs. Reagan so aptly suggested.

It also provides other funds for the IRS to make sure that we have a system that works. We have new people in place that are addressing the problems that the committee has seen and that the Congress has seen, and very frankly, I think this bill is a good bill that could be unanimously supported by the committee.

I want to make a point to the chairman. I do not see the major chairman on the floor. I understand there is a colloquy, and I will wait perhaps and hopefully the gentleman from Louisiana, Chairman LIVINGSTON, will be on the floor. I understand he is on his way. I understand the gentleman from Arizona [Mr. KOLBE] has a colloquy to enter into.

Mr. Speaker, let me simply say that I congratulate the gentleman for his work on this bill, I congratulate him on the bipartisan fashion in which he has worked toward fashioning a bill that I think is acceptable to all parties.

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

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

Mr. Speaker, I would just say, since I did not in my opening remarks, I would like to return the compliment to the gentleman from Maryland [Mr. HOYER]. It has been a great pleasure to work with him. We have not agreed on everything, by any means, but I think we have always worked in a spirit of constructive cooperation, of finding answers to the problems, and I think what we have is a bill that has such bipartisan support because of the work of the gentleman from Maryland [Mr. HOYER] and his staff, who I complimented when we considered the bill before. But I want to again compliment all the staff, the committee staff as well as the personal staffs on both sides of the aisle, for the work they have done.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. DAVIS] for the purposes of a colloquy.

Mr. DAVIS of Virginia. Mr. Speaker, is it correct that in this bill Congress has increased the Office of Management and Budget's budget by $200,000 in order to help OMB facilitate their oversight and coordination of both new and ongoing statutory responsibilities, including the Congressional Review Act?

Mr. KOLBE. That is correct.

Mr. DAVIS of Virginia. Mr. Speaker, this appropriated sum is significant because the House Committee on Government Reform and Oversight has learned in hearings over the past year and a half that OIRA has not been implementing and coordinating the Congressional Review Act, despite its organizing statute and President Clinton's Executive order.

To make the Congressional Review Act work, Congress and the agencies need OIRA'S expertise to coordinate agency input to the General Accounting Office on the new rules they promulgate. The Government Accounting Office has reported to us that they have been frustrated by OIRA's refusal to work with them in their role of helping Congress understand the impact of each major rule.

I appreciate the chairman's leadership on this bill.

Mr. KOLBE. Mr. Speaker, I appreciate the concern of the gentleman from Virginia [Mr. DAVIS] and the remarks that he has made. I look forward to working with him, and other Members who have expressed the same views on this issue, in the forthcoming year to ensure that the OMB dedicates the necessary resources to this and to other issues.

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

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Cleveland, OH [Mr. KUCINICH].

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

Mr. Speaker, as a former local official, I know every dollar counts, and that local taxpayers are being asked to shoulder the ever-increasing burden of services the Federal Government no longer provides. That is why I support a money-saving program for local and State governments, and why I now oppose the Treasury-Postal appropriation.

The cooperative purchasing program, which Congress passed into law in 1994, at section 1555 of the Federal Acquisition Streamlining Act, was designed to allow local and State governments, school districts and public hospitals, to purchase goods and services at a super discount off the Federal rate, saving local taxpayers hundreds of millions of dollars per year. Unfortunately, some have moved to take this particular program out of the conference report.

Here is how the cooperative purchasing program is supposed to work. A school district has to purchase computers, chalkboards, and basic furniture. Thanks to the cooperative purchasing program, the school district could buy the supplies and services it needed directly from vendors at the discounted prices the GSA negotiated. The GSA, as we know, is a procurement agency for the government.

These GSA-negotiated prices are often the lowest anywhere, allowing local taxpayers an opportunity to save money. Unfortunately, certain industry groups that benefit from government inefficiency would like nothing more than to have the law repealed. So the pharmaceutical industry wants to see the program repealed, because cooperative purchasing would entitle public hospitals and AIDS clinics to significant discounts on life-saving drugs. The medical equipment industry is also mobilizing against the discounts.

Mr. Speaker, we have a way to reduce the cost of government. It is called the cooperative purchasing program. Today the House will keep this idea and the program alive by rejecting the conference committee report. Let us tell our constituents we want to keep local taxes low and we reject the repeal of the cooperative purchasing program.

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

Mr. Speaker, I thank the gentleman for his comments. Just briefly, obviously, that was an issue that there was strong feeling on, particularly in the Senate, and frankly it was impossible to prevail on that position from the House perspective.

Mr. Speaker, I would enter into a colloquy with the distinguished chairman. The chairman and I have had long discussions and worked many years on the FEC. We differ in our perspectives in some respects, but we have come, I think, to what is a fair agreement on both sides, given the status of the conference report.

Mr. Speaker, I would ask the gentleman, am I correct that under the language that we have adopted with respect to FEC term limits, that there are two Republican vacancies currently and two Democratic vacancies? As I understand it, there are three pending nominations and one Republican that was withdrawn and one that will be made. Hopefully both the executive and the legislative will cooperate to make sure those nominations are made prior to December 31.

It is our understanding that under those circumstances, they would then be able to be reappointed once after the initial appointment.

Is that correct, Mr. Speaker?

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

Mr. HOYER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, my friend, the gentleman from Maryland, is correct. As the gentleman knows, I have been a proponent of term limits for appointed members in the executive branch for some time, and especially on the Federal Election Commission.

It now appears that we are in the final days of resolving this with the prospect that those term limits could be adopted for members on the Federal

Election Commission. In view of the fact that some members of the Commission have served for the duration of the Commission, since about 1974, it just seemed to me that term limits are an appropriate remedy.

That being the case, in order to get the bill signed without too much undue negotiation and/or a veto, I have agreed with the gentleman that we would make sure that any person currently on the Commission or any person who might be appointed to or nominated for an appointment to the Commission between now and December 31 of this year would not be subject to that term limit immediately, but would be able to be appointed for a subsequent term, and that would be their last term. Anybody nominated or appointed following December 31 of this year would in fact be subject to the one-term, one 6-year term limit, and would only be able to serve 6 years at the most.

Mr. HOYER. I thank the chairman for his comments. That is, indeed, my understanding, that the four vacancies, two Republicans and two Democrats that are pending now, three being nominated, one Republican to be nominated, they would be subject to these limits, to the extent that they could serve the term for which they are now nominated and one additional; that is, sitting members, now, could be reappointed for one term, but that all future commissioners would be limited to the one term.

Mr. LIVINGSTON. That is correct.

Mr. HOYER. I appreciate the chairman's clarification.

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

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS of Virginia. Mr. Speaker, I thank my friend for yielding time to me. I appreciate the gentleman's efforts that have gone into this.

I join with my friend, the gentleman from Ohio [Mr. KUCINICH] in being very disappointed and expressing our disappointment in the fact that this bill has come back from conference that repeals the cooperative purchasing program, which was a program established under Federal Acquisition Streamlining Act in the 103rd Congress.

This act allows local governments to buy at a discount items off the GSA schedule that the Federal Government buys and at prices the Federal Government currently pays. This provision could have saved local governments, State and local governments tens of millions, perhaps hundreds of millions of dollars annually.

Instead of passing this cost down to State and local taxpayers, the Senate, without holding one hearing, has decided to repeal this provision. I am particularly disappointed that the Group 70 schedule, a schedule with over 1,200 vendors, where over 90 percent of the vendors who applied to get on that schedule can get on, was discarded.

This is going to cost State and local governments millions of dollars, perhaps billions of dollars over the next decade as they go to acquisitions of information technology, computers, and very complex procedures that take a lot of time to go out with a request for proposal, responses to the proposals, best and final.

If they had been allowed to purchase under the Cooperative Purchasing Act, they could have purchased right off the GAO's schedule, could have defined exactly what they wanted, and it would have compressed the acquisition time in a significant manner, and literally would have saved millions of dollars.

So I am very disappointed, as is the National Governors' Association, the National Association of Counties, the National League of Cities, the Conference of Mayors, and other State and local government organizations who have worked with this Congress over the last couple of years to try to help them bring savings to their taxpayers, as we are trying to do here at the Federal level.

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

Mr. DAVIS of Virginia. I yield to the gentleman from Maryland.

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

Mr. Speaker, I understand and appreciate the gentleman's position. As the gentleman knows, in fact, I share his position on this issue, and voted that way in committee before the bill was reported to the floor. As the gentleman well knows, I lost, and his position, as articulated now, lost as well. On a point of order it was struck, but the fact of the matter is the reality was that the majority of the conferees on the House side and the majority of the conferees on the Senate side were for doing what the Senate did.

I will tell my friend, who I believe serves on the Committee on Government Reform and Oversight, the real problem is the chairman of the Committee on Government Reform and Oversight did not demand that the jurisdiction of the committee be honored in this instance. Very frankly, this is an issue for the gentleman's committee. He is absolutely correct.

I regret that the initial recommendation of the gentleman from Arizona, Chairman KOLBE, which was, back when we did the supplemental in March, to defer this issue to the gentleman's committee for action, did not in fact happen. I appreciate the gentleman's point.

Mr. DAVIS of Virginia. Mr. Speaker, I include for the RECORD a letter from the Vice President supporting my position.

The letter referred to is as follows:

THE VICE PRESIDENT,
Washington, September 23, 1997.

Hon. THOMAS M. DAVIS, III,
U.S. House of Representatives,
Washington, DC.

DEAR TOM: Thank you for your strong support for the use of cooperative purchasing authority for state and local governments. The Administration opposes repeal of this authority in the Treasury-Postal Appropriations Act for 1998 and would support the House's position in conference.

In 1993, as part of my work on reinventing government, I recommended to the President that General Services Administration be granted the authority to allow states and localities to purchase items from the federal supply schedules so they could enjoy the same advantageous prices GSA is often able to negotiate under contracts it has set up for the federal government's use. Used in appropriate circumstances, this cooperative purchasing authority might result in significant savings to the American taxpayer. Congress agreed and in 1994, gave GSA cooperative purchasing authority in the historic Federal Acquisition Streamlining Act.

It is surprising that efforts are underway to repeal this authority without the benefit of congressional hearings or other opportunities to assess the advantages of this program for taxpayers. The General Accounting Office studied this issue and concluded that the provision, if managed effectively, would not harm the federal government. As a result, the Administration opposes this attempt to repeal the provision because it could deny state and local taxpayers the opportunity to share in the savings the Federal Government is able to negotiate as a large buyer of commercial items.

However, if the repeal cannot be stricken in Conference, the Administration is willing to work with the Congress on a compromise to permit such purchases for a number of specified product categories in demand by State and local governments and whose affected producers have not objected. We would further urge that this authority include a limited pilot program for pharmaceuticals used to treat life-threatening conditions, beginning with drugs used to treat HIV. We also urge the retention of GSA's authority to make any of the services it provides to Federal agencies available to a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act. GSA's total collection of administrative fees will not increase by more than the incremental increase in the cost of administering the program.

As a former county official, you appreciate more than most that taxpayers do not make much distinction between the federal, state, and local governments when they pay taxes. They want the benefit of savings and efficiency, from whatever level of government. If we do not work together to make this happen, we will never be able to restore the public's confidence in government. The cooperative purchasing program is an important example of how we need to use common sense to save tax dollars and do the right thing for all Americans.

Again, thank you for your leadership in this good fight.

Sincerely yours,

AL GORE.

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

Mr. Speaker, let me say to my friend, the gentleman from Virginia, and to all those who are concerned about this issue, the fact of the matter is, I am on their side and we lost. But I would urge the gentleman to look at the balance of the bill, because in terms of all of the rest of the bill, in terms of IRS, in terms of Customs, in terms of Secret Service, in terms of ATF, in terms of the White House, in terms of all of the other issues that this bill covers, it is

a very positive bill for many of the folks that the gentleman and I represent.

I would urge the gentleman that this is really an issue that needs to be addressed in the gentleman's committee. It should not be in our committee, the gentleman is absolutely right. The fact of the matter is the majority believed that this should pass, and we did not have the votes to stop it. I thank the gentleman.

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

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, it is unfortunate that the most felicity about this bill has been because our pay raise, our COLA increases, are tied to the salaries in this bill, because in actuality that is less of the amount of dollars than we are increasing the IRS. We as Republicans are going around the country right now criticizing the IRS, while we are increasing their dollars here. There are many reasons why we are doing it, but nevertheless, it is rather an inconsistent message.

Furthermore, many Republicans went around the country criticizing the Bureau of Alcohol, Tobacco, and Firearms, and many gun owners around this country have been concerned about their abuses and civil rights abuses, yet we are not only not eliminating ATF, we are increasing ATF. I have great problems with this, as well as with the pay increase, and Members need to know that that is what is tied to this bill.

The second major concern I have is the process. It was not that we were not aware that this bill had us tied to the pay increase, it was that there was no rule vote, so we could not object to the rule. The rule, because we could not object to a rule, it meant that we were not allowed to offer any amendment to stop the pay raise. Therefore, the only thing we could do the first time was to vote against this bill the first time it went through. We could not do a motion to recommit or a motion to instruct conferees, because that is left to the minority leadership, so we had a procedural vote.

Once again, because it is a conference report, we cannot have a vote in this Congress on the pay raise. I think that is unfortunate. Thaere are a lot of Members, and I realize it is the will of this House, the majority of the Members favor a pay increase, but in fact this is another backdoor way to do it through, and it is unfortunate we did not have a straightforward vote.

□ 1715

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

Following up on the comments of the gentleman who has just spoken, this is not a back-door way to do anything. The amendment that the gentleman refers to, as I understand it, has been introduced in the form of a bill. It is in committee. It can be reported out. The fact of the matter is, we could add the amendment that the gentleman suggests to any bill being considered by this House. It is not germane on this bill because nothing in this bill deals with pay, as the gentleman knows. I presume he knows that. If he does not know it, I will inform him. Nothing in this bill deals with pay.

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

Mr. HOYER. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Speaker, is it not true that our salary increases are tied to the increases of Federal employees?

Mr. HOYER. To the extent that we cannot get any COLA adjustment if Federal employees do not get it, that is accurate. It is not included in this bill. No, sir. Nothing in this bill deals with the COLA's of Federal employees; nothing in this bill deals with the COLA's of Members; nothing, not one jot or tittle.

Mr. SOUDER. Mr. Speaker, if this would fail, would we get our increase?

Mr. HOYER. Absolutely. If it would pass, we would get our increase.

Mr. SOUDER. The gentleman is saying that our salaries go up regardless of what we do?

Mr. HOYER. Mr. Speaker, I am saying to the gentleman that nothing in this bill will affect his salary one way or the other.

Mr. SOUDER. Is it not true that this bill has historically, because it contains the salaries of Federal employees, the amendment to not have the pay raise, to eliminate the COLA is historically placed?

Mr. HOYER. Reclaiming my time, Mr. Speaker, obviously salaries and expenses for Federal employees are in every bill that deals with every agency, as the gentleman knows.

The gentleman is correct that this bill deals with the Office of Personnel Management. He is further correct that from time to time this bill has been used as a vehicle to stop the COLA adjustment. It could be effected in any bill, I tell the gentleman. So the gentleman's comments are as relevant to any bill that we consider as they are to this one.

Mr. SOUDER. Mr. Speaker, if the gentleman will continue to yield, is it not true that the Senate had placed their amendment on this bill and if we did it on another bill, the Senate has not passed it, therefore it could die in conference or could be vetoed by the President if it is freestanding, but if you do it on an appropriations bill, that it is less likely to be vetoed, and, secondly, that we have had no precedent in any other bill that the Senate has ever put that amendment on?

Mr. HOYER. Mr. Speaker, I think we could make that observation. Obviously, the Senate receded in this instance, as the gentleman knows, I think wisely so. I would hope that this conference committee would pass based upon the merits of this bill.

Mr. SOUDER. I thank the gentleman.

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

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume. I would briefly like to respond to a couple of the other things that the gentleman from Indiana spoke about on the IRS.

I am very pleased with what we did here with the IRS. There are three increases that are in here for, as the gentleman from Indiana spoke about. Yes, it is an increase for IRS; $377 million of that increase is for Y–2K, that is the Year 2000 Compliance, to make sure that the computers are able to handle the shift to the new millennium. I do not think there is anybody that believes that we should have the whole system crash and the IRS not be able to function after the year 2000. That is what this money is in there for. We have funded that completely.

There is also $325 million for technology investment, what we used to call the tax system modernization where, we know, money was unfortunately frittered away in past years. So we have gone to a new system where now the money that we put aside for that is going to be fenced. We will not allow one dime of that to be spent until the committees, both the House and Senate, have seen the architectural plan for the spending of that money. There again, I think this is wise management and prudent spending.

Finally, for another initiative that this body has said is extraordinarily important, the $138 million for the earned income tax compliance initiative. We heard during the debate recently on the budget about the tremendous abuse of the earned income tax credit. We put in $138 million to enhance compliance and to cut down on the fraud and abuse of the earned income tax credit.

For all of those reasons, I think that the money that we have appropriated here, the increased money for the Internal Revenue Service, which, by the way, is still $204 million below the President's request, that that money that is in here is well spent. It has been carefully thought out. It has been worked out very carefully not only with the Internal Revenue Service, but also with the minority side, with the Senate, and I think that we have a very good handle on that money.

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

The fact of the matter is that I would hope that Members would concentrate on what this bill is, not what it is not, what it possibly could be, what could be added. There are a lot of great things that probably could be added to this bill that are not added to this bill. There are probably a lot of great things or bad things that this bill could preclude that it does not. But what it is, what this bill is that Members are going to consider is an excellent bill that does good and is bipartisan in nature. We all gave to reach agreement.

I thank the chairman for his leadership and effort on this issue.

REQUEST FOR QUORUM CALL

Mr. HOYER. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER pro tempore (Mr. LATOURETTE). Does the gentleman from Maryland move a call of the House? Under clause 6(e)(1) of rule XV, a point of no quorum is not in order at this point in the debate. Does the gentleman move a call of the House?

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, could I be told how much time remains in the debate?

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] has 17 minutes remaining, and the gentleman from Arizona [Mr. KOLBE] has 18 minutes remaining.

REQUEST FOR CALL OF THE HOUSE

Ms. DELAURO. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The gentlewoman will withhold that motion. Under clause 6(e)(2) of rule XV, recognition for a motion for a call of the House is entirely in the discretion of the Chair.

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

I want to reiterate why Members ought to vote for this bill. The reason they ought to vote for this bill is because it does some things that are very important to average Americans, families in neighborhoods, in communities, concerned about the safety of their children, concerned about the safety of their families, concerned about the safety of their neighborhoods.

It provides $3.9 billion for law enforcement efforts. Every Member in this House supports that kind of effort. The fact of the matter is, $1.6 billion of that money is for antidrug activities. We could all talk about making communities safe. We can go back to our town meetings and say, I want to keep America safe from drugs; I want to keep American kids off of drugs. But the fact of the matter is, this effort makes that happen. This is an important initiative.

ONDCP, which is the organization that General McCaffrey heads up, as all of you know, the most decorated soldier in America, General McCaffrey heads up the ONDCP. He has organized an effort across the Government to make sure that we maximize our effort to make our communities safe. We provide for monies to go on television. We know that there is nothing that impacts young people in America like television.

What this bill does is provide funds so that we can communicate with young people with reference to staying off drugs, as I said earlier, just saying no. That is a critically important effort. I would ask Members to focus on that. There are some of you who think this bill is not perfect. You are absolutely right, it not perfect, but it is a very important effort in trying to address the drug problem in America, safe communities in America.

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

Mr. HOYER. I yield to the gentleman from Arizona.

Mr. SALMON. Mr. Speaker, I have a question about the funding in this for the IRS. Is it true or not true that the funding for the IRS increases by a half a billion?

Mr. HOYER. Mr. Speaker, let me get that figure for the gentleman. Maybe the chairman has the exact figure.

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

Mr. HOYER. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I just covered this a moment ago. Let me tell the gentleman again what is in here. Although it is $204 million below what the President requested, we have three increases for the IRS.

We have $377 million for Y–2K, year 2000 compliance, to make sure that the computers are compliant and that we will be able to process tax returns at the new millennium, which I do not know of any Member who thinks we should not be able to do in our Federal agencies.

There is $325 million in this bill for technology investment. This was formerly called the tax system modernization program, but unfortunately that money was wasted, and we have now gone back and said that not one dime of this $325 million can be spent by the IRS until there is actually an architectural blueprint or a plan for how it is going to be used.

Finally $138 million is in there for the earned income tax compliance initiative. We heard about this during the debate over the budget, the concerns about fraud and abuse of the EITC. I think it is a priority of this House that we have more compliance with the EITC. That is why we have it in here.

Mr. SALMON. Mr. Speaker, if the gentleman will continue to yield, so the overall figure is somewhere over a half a billion?

Mr. HOYER. Mr. Speaker, the answer to the gentleman's question is yes, but I would point out to the gentleman, the bill is over $200 million below what the President felt necessary to fund the IRS. The committee cut that figure by over $200 million.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 220, nays 207, not voting 7, as follows:

[Roll No. 474]

YEAS—220

Abercrombie
Ackerman
Archer
Armey
Ballenger
Barrett (NE)
Barton
Bateman
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Cox
Coyne
Crapo
Cummings
Cunningham
Davis (VA)
Delahunt
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Engel
Eshoo
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Fowler
Frank (MA)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gilchrest
Gilman
Gingrich
Green
Greenwood
Hall (OH)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Hilliard
Hobson
Hoekstra
Horn
Houghton
Hoyer
Hunter
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (MA)
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lantos
Latham
LaTourette
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
Manton
Markey
Martinez
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne
Pelosi
Pickering
Pickett
Porter
Portman
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Rogers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Saxton
Scott
Serrano
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stark
Stokes
Stupak
Tanner
Tauzin
Taylor (NC)
Thomas
Thompson
Torres
Towns
Upton
Vento
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wolf
Woolsey
Wynn
Yates
Young (AK)

NAYS—207

Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (WI)
Bartlett
Bass
Bereuter
Berry
Bonior
Boswell
Brady
Brown (OH)
Bryant
Bunning
Burr
Campbell
Canady
Capps
Carson
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crane
Cubin
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
DeLauro
Deutsch

Duncan	Klug	Royce
Edwards	Kucinich	Ryun
Emerson	LaHood	Salmon
English	Lampson	Sanchez
Ensign	Largent	Sanders
Etheridge	Lazio	Sandlin
Evans	Lewis (GA)	Sanford
Everett	Lewis (KY)	Sawyer
Forbes	LoBiondo	Scarborough
Ford	Lofgren	Schaefer, Dan
Fox	Lowey	Schaffer, Bob
Franks (NJ)	Lucas	Schumer
Gejdenson	Luther	Sensenbrenner
Gekas	Maloney (CT)	Sessions
Gephardt	Manzullo	Shadegg
Gibbons	Mascara	Shays
Gillmor	McCarthy (MO)	Sherman
Goode	McGovern	Shimkus
Goodlatte	McIntyre	Slaughter
Goodling	McKinney	Smith (MI)
Gordon	Menendez	Smith, Adam
Goss	Metcalf	Smith, Linda
Graham	Mica	Snowbarger
Granger	Minge	Snyder
Gutierrez	Moran (KS)	Souder
Gutknecht	Myrick	Spratt
Hall (TX)	Neumann	Stabenow
Hamilton	Northup	Stearns
Hayworth	Norwood	Stenholm
Hefley	Nussle	Strickland
Herger	Pappas	Stump
Hill	Pascrell	Sununu
Hilleary	Paul	Talent
Holden	Pease	Tauscher
Hooley	Peterson (MN)	Taylor (MS)
Hostettler	Peterson (PA)	Thornberry
Hulshof	Petri	Thune
Hutchinson	Pitts	Thurman
Inglis	Pombo	Tiahrt
Istook	Pomeroy	Tierney
Jenkins	Poshard	Traficant
John	Price (NC)	Turner
Johnson (CT)	Radanovich	Velazquez
Johnson (WI)	Ramstad	Visclosky
Jones	Reyes	Walsh
Kaptur	Riggs	Wamp
Kasich	Riley	Watkins
Kelly	Rivers	Watts (OK)
Kennedy (RI)	Rodriguez	Weller
Kennelly	Roemer	Weygand
Kildee	Rogan	White
Kim	Rohrabacher	Whitfield
Kind (WI)	Rothman	Wise

NOT VOTING—7

Gonzalez	Maloney (NY)	Young (FL)
Hinchey	Pastor	
Hinojosa	Schiff	

□ 1750

Messrs. SHAYS, COOK, and Mr. BARTLETT of Maryland changed their vote from ''yea'' to ''nay.''

Messrs. BONO, MCINTOSH, and BONILLA changed their vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, during rollcall vote No. 474 on H.R. 2378 I was unavoidably detained. Had I been present, I would have voted ''aye.''

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, on rollcall vote No. 474, final passage of the Treasury, Postal Appropriations Conference Report, H.R. 2378, I was unavoidably delayed. Had I been present to vote, I would have voted ''nay.''

PERSONAL EXPLANATION

Mrs. MALONEY of New York. Mr. Speaker, on rollcall vote No. 474, the conference report to H.R. 2378, Treasury, Postal appropriations for fiscal year 1998, had I been present, I would have voted ''no.''

CONTINUING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–137)

The SPEAKER pro tempore (Mr. LATOURETTE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1997, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on October 31, 1996. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency and that are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1997.*

NOTICE

CONTINUATION OF IRAN EMERGENCY

On November 14, 1979, by Executive Order 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the *Federal Register*. The most recent notice appeared in the *Federal Register* on October 31, 1996. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1997. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the *Federal Register* and transmitted to the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1997.*

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on further consideration of the bill, H.R. 2267, and that I may include tabular and extraneous material.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to House Resolution 239 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2267.

□ 1755

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Friday, September 26, 1997, amendment No. 16 by the gentleman from Georgia [Mr. BARR] had been disposed of and section 616 was open to further amendments.

Are there further amendments to this section of the bill?

Mr. ROGERS. Mr. Chairman, I move to strike the last word to discuss the evening schedule.

Mr. Chairman, the first order of business on the consideration of this bill is the matter dealing with the census. Under the unanimous-consent agreement of last week, debate time on this amendment was limited to 80 minutes.

On this side of the aisle, I do not anticipate any extraneous motions, in which case, if the other side could agree to that, we could have 80 minutes where Members would be able to attend

to other business while the debate on this matter proceeds.

I wonder if the gentleman from West Virginia [Mr. MOLLOHAN] would like to discuss that. If so, I will yield.

Mr. OBEY. Mr. Chairman, would the gentleman from Kentucky [Mr. ROGERS] renew his motion? We could not hear it.

Mr. ROGERS. I did not have a motion. What I had attempted to do was to try to explain to the Members that the first order of business now is the consideration of the census matter, which under the unanimous consent of last week, the debate time is limited to 80 minutes.

If there are no extraneous motions intervening during that period of time on either side, Members can feel free to attend to other business during that period of time without fear of a vote.

□ 1800

I think I can assure the body that there will not be such motions on this side, and if we can have that assurance from that side, Members could have 80 minutes.

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

Mr. ROGERS. I yield to the gentleman from Wisconsin.

Mr. OBEY. With all due respect, Mr. Chairman, I cannot give that assurance on this side because I intend to make one of the motions myself.

AMENDMENT OFFERED BY MR. MOLLOHAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part II amendment printed in House Report 105–264 offered by Mr. MOLLOHAN:

In the first paragraph under ''DEPARTMENT OF COMMERCE—BUREAU OF THE CENSUS—PERIODIC CENSUSES AND PROGRAMS'' strike ''Subject to the limitations provided in section 209, for'' and insert ''For''.

Strike section 209 and insert the following:

SEC. 209. None of the funds made available in this Act for fiscal year 1998 may be used by the Department of Commerce to make irreversible plans or preparations for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

SEC. 210. (a) There shall be established a board to be known as the Board of Observers for a Fair and Accurate Census (hereinafter in this section referred to as the ''Board'').

(b)(1) The function of the Board shall be to observe and monitor all aspects of the preparation and implementation of the 2000 decennial census (including all dress rehearsals) to determine whether the process has been manipulated in any way so as to bias the results in favor of any geographic region, population group, or political party, or on any other basis.

(2) In carrying out such function, the Board shall give special attention to the design and implementation of any sampling techniques and any statistical adjustments used in determining the population for purposes of the apportionment of Representatives in Congress among the several States.

(3) The Board shall promptly report to the Congress and the President evidence of any manipulation referred to in paragraph (1).

(c)(1) The Board shall be composed of 3 members as follows:

(A) 1 individual appointed by the President.

(B) 1 individual appointed jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate.

(C) The Comptroller General of the United States.

The members appointed under subparagraphs (A) and (B), respectively, shall be former Presidents or others of similar stature.

(2) Members shall not be entitled to any pay by reason of their service on the Board, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(d)(1) The Board shall have an Executive Director who shall be appointed by the Board and paid at a rate not to exceed level IV of the Executive Schedule.

(2) The Board may appoint and fix the pay of such additional personnel as it considers appropriate, subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(3) Subject to such rules as may be prescribed by the Board, the Board may procure temporary and intermittent services under section 3109(b) of such title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of pay payable for grade GS–15 of the General Schedule.

(4)(A) Upon request of the Board, any personnel of an agency under subparagraph (B) may be detailed to the Board, on a reimbursable basis or otherwise, to assist the Board in carrying out its duties.

(B) The agencies under this subparagraph are the General Accounting Office, the Congressional Research Service, and the Congressional Budget Office.

(e)(1) Notwithstanding any provision of title 13, United States Code, or any other provision of law, members of the Board and any members of the staff who may be designated by the Board under this paragraph shall be granted access to any data, files, information, or other matters maintained by the Bureau of the Census (or received by it in the course of conducting a decennial census of population) which they may request, subject to such regulations as the Board may prescribe in consultation with the Secretary of Commerce.

(2) The regulations shall include provisions under which individuals gaining access to any information or other matter pursuant to paragraph (1) shall be subject to sections 9 and 214 of title 13, United States Code.

(f) The Board shall transmit to the Congress and the President—

(1) interim reports, as least semiannually, with the first such report due by August 1, 1998; and

(2) a final report not later than August 1, 2001.

The final report shall contain a detailed statement of the findings and conclusions of the Board with respect to the matters described in subsection (b), together with any recommendations regarding future decennial censuses of population.

(g) Of the amounts appropriated to the Bureau of the Census for each of fiscal years 1998 through 2001, $2,000,000 shall be available to the Board to carry out this section.

(h) To the extent practicable, members of the Board shall work to promote the most accurate and complete census possible by using their positions to publicize the need for full and timely responses to census questionnaires.

(i) The Board shall cease to exist on September 30, 2001.

The CHAIRMAN. Pursuant to House Resolution 239, the gentleman from West Virginia [Mr. MOLLOHAN] and a Member opposed will each control 40 minutes.

Who seeks time in opposition?

Mr. HASTERT. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. HASTERT] will control 40 minutes.

The gentleman from West Virginia [Mr. MOLLOHAN] is recognized for 40 minutes.

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

Mr. Chairman, I rise to offer an amendment to the bill.

I would first like to thank the distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], and the distinguished ranking member, the gentleman from Massachusetts [Mr. MOAKLEY], for making the Mollohan-Shays amendment in order. It was the fair thing to do.

Mr. Chairman, this is a bipartisan amendment offered jointly with my colleague from Connecticut [Mr. SHAYS]. I want to take this opportunity to thank him and the many other Members on both sides of the aisle, especially the gentleman from Ohio [Mr. TOM SAWYER] and the gentlewoman from New York [Mrs. CAROL MALONEY], who have worked so hard in support of this amendment.

Mr. Chairman, the Constitution requires that we take a census of the entire population of the United States every 10 years. That means we count everyone, rich people, poor people, rural, urban, all races.

We are increasingly having a problem doing this count accurately. The error rate skyrocketed in 1990 to include 26 million people with an undercount of 1.6 percent of the population, and if we do not do something, Mr. Chairman, it is estimated that in 2000 the undercount will continue to climb. That is a lot of men, women, and children that will be left out of our Nation's family, just left out, Mr. Chairman, a lot from the inner city, a lot of the very rural, a lot of poor folks just left out of the count.

We can do something about this by building on sampling methods which have been a part of the census for the last 50 years. The Census Bureau wants to employ sampling, not only in this Democratic administration, but going back to President Bush's administration when Barbara Bryant, Republican appointed director of the 1990 census, started working to increase the use of sampling in the census. She says now, Mr. Chairman: ''I am very much in favor of the plan the Census Bureau has. It builds work that I started on back in 1990.''

Well, these plans and recommendation are good. It is also good that this bill contains $381 million to plan and

run tests next spring for what could be the most accurate census in our Nation's history.

But there is a very bad provision in this bill, the Hastert substitute which calls for a constitutional review of sampling, and during that review, this provision kills sampling by prohibiting the Census Bureau from spending any money on sampling planning. If the Census Bureau cannot spend money planning for sampling, then we cannot use sampling in the 2000 census; it is just that simple.

Now, Mr. Chairman, the amendment the gentleman from Connecticut [Mr. SHAYS] and I offer removes the Hastert prohibitions and replaces them with the most reasonable language contained in the Senate-passed bill which lets the Census Bureau test scientific sampling methods so long as they are not irreversible. And our amendment goes one step further. We propose to create a board of advisors for a fair and accurate census. This body would be made up of three individuals, one appointed by the President, one jointly appointed by the Speaker and the President pro tem of the Senate, and third, the Comptroller General. The first two appointments shall be former Presidents or men and women of similar stature. The main purpose of the board would be to observe and monitor all aspects of the preparation and the implementation of the 2000 census to assure the process is not in any way manipulated.

Mr. Chairman, those who object to sampling use three main arguments which I think can be soundly refuted. In their first arguments, opponents of sampling cite the Constitution. They assert that the Constitution requires an actual head count of the population. However, separate opinions issued by the Department of Justice under Presidents Carter, Bush, and Clinton, bipartisan in nature, all concluded that the Constitution permits the use of sampling and statistical methods as a part of the census.

Stuart M. Gerson, assistant attorney general, Civil Division, in the Bush administration, concluded in a July 1991 memorandum to the Commerce Department's attorney general that the meaning of the term ''enumeration of the Constitution'' is, quote, more likely found in the accuracy of census-taking than in the selection of any particular method. Continuing, he says, nothing indicates any additional intent on the part of the Framers to restrict for any time, for all time, the manner in which the census is conducted, end of quote.

Additionally, on this issue of constitutionality of sampling, Mr. Chairman, Federal courts have uniformly upheld the use of sampling. For example, in the City of New York v. Department of Commerce, a 1990 case, the court concluded that, quote, because article 1, clause 2, requires the census to be as accurate as practicable, the Constitution is not, is not, a bar to statistical adjustment.

In their second argument, Mr. Chairman, opponents of sampling say that it is bad science. Quite the opposite. The experts and statisticians disagree. After the 1990 census, the Congress asked, because of the bad count, the Congress asked the National Academy of Sciences what could be done to make sure that every person in our country is counted in the 2000 census, unlike the 1990 census. And the National Academy of Sciences recommended sampling, a greater use of sophisticated sampling techniques.

Further, the National Research Council, the American Statistical Association, and the General Accounting Office all have endorsed the use of sampling, the increased use of sampling, in the census.

Barbara Bryant, again, census director under none other than President Bush, had the following to say in a recent letter to Speaker NEWT GINGRICH:

In the long run, our Nation is best served by accuracy. Sample surveys to estimate those who will not or cannot be counted in the 2000 census after the Census Bureau has made every reasonable and good-faith effort to voluntarily enumerate them will increase the accuracy of the census.

Mr. Chairman, in their third argument, opponents of sampling say that the Commerce Department will politicize the results of the census. While I do not in any way share this view, its nature makes it impossible to refute through fact or expert opinion. It can only be refuted through a guarantee of careful oversight, and that is precisely what the Mollohan-Shays amendment does with the board of advisers for a fair and accurate census; it assures oversight.

Mr. Chairman, having refuted the three most used arguments against sampling, only one remains: Fear, the fear that using sampling will affect the political makeup of the House of Representatives. The real manipulation going on today is the Republicans' majority attempt to control funding to prevent the Census Bureau from using the one technique all the experts say will yield the most accurate census. And why are they doing this? By their words, it is, they indicate, that it is because they are afraid of what will happen if every person in this country is counted, afraid they may lose seats in the Congress. I do not agree with that view. It is a false fear.

But in any event, let me remind my colleagues that the purpose of the census is to count the people of our Nation, not to ensure that any political party controls the Congress. We should strive toward accuracy and let the political chips fall where they may. To quote the recent commentary in a Business Week magazine, Census 2000, Math, Not Politics, Please, end of quote.

Mr. Chairman, I would like to close by reaching out to my Republican colleagues, perhaps some from States that had a large undercount in the 1990 census. We cannot pass this amendment without them. Join us in fashioning a census where we count all women, all men, and all children, where we do not leave out four or five or six million inner city, rural, and poor folks. Let us take advantage of this historic opportunity in a bipartisan way to have the best census ever.

Vote for the Mollohan-Shays amendment.

Following are excerpts from decisions of several Federal courts which have considered the issue of the constitutionality and legality of use of sampling and statistical adjustment in the census, and from legal memoranda by senior Justice Department officials from both Republican and Democratic administrations.

United States Court of Appeals for the Sixth Circuit: ''Although the Constitution prohibits subterfuge in adjustment of census figures for purposes of redistricting, it does not constrain adjustment of census figures if thoroughly documented and applied in a systematic manner.''

Young v. *Klutznik*, 652 F.2d 617, 625 (6th Cir. 1981)

United States District Court for the Eastern District of New York: ''This Court concludes that because Article I, section 2 requires the census to be as accurate as practicable, the Constitution is not a bar to statistical adjustment.''

City of New York v. *U.S. Dept. of Commerce*, 739 F.Supp. 761, 767 (E.D.N.Y. 1990)

United States District Court for the Southern District of New York: ''It appears to the Court that this language [in the Constitution] indicates an intent that apportionment be based on a census that most accurately reflects the true population of each state.''

''Consequently, the Court finds defendants' constitutional and statutory objections concerning the impropriety of employing statistical adjustments to compensate for the undercount without merit.''

Carey v. *Klutznik*, 508 F.Supp. 404, 415 (S.D.N.Y. 1980)

United States District Court for the Eastern District of Michigan: ''It is unthinkable to suggest, that, when the allocation of federal resources and the apportionment of Congressional Representatives rest upon an accurate census count, and when the Census Bureau itself knows that there is an undercount, which heavily disfavors Blacks and minorities, and when a method can be found to correct that undercount, that the words 'actual enumeration' in the Constitution prevent an adjustment to obtain a more accurate figure than the actual headcount.''

Young v. *Klutznik*, 497 F.Supp. 1318, 1333 (E.D. Mich 1980)

United States District Court for the Eastern District of Pennsylvania: ''It may be that today an actual headcount cannot hope to be an accurate reflection of either the size or distribution of the Nation's population. If so, it is inconceivable that the Constitution would require the continued use of a headcount in counting the population. Therefore, the Court holds that the Constitution permits the Congress to direct or permit the use of statistical adjustment factors in arriving at the final census results used in reapportionment.''

City of Philadelphia v. *Klutznick*, 503 F.Supp. 663, 679 (E.D.Pa. 1980) (emphasis in original)

United States Court of Appeals for the Second Circuit: ''Reading sections 141 and 195 [of

the Census Act] together in light of their legislative history, we conclude that Congress intended the Secretary (a) to conduct an actual enumeration as part of the decennial census, and (b) in lieu of a 'total' enumeration to use sampling and special surveys 'whenever possible'. Accordingly, we conclude that a statistical adjustment to the initial enumeration is not barred by the Census Act and indeed was meant to be encouraged.''

City of New York v. *U.S. Department of Commerce,* 34 F.3d 1114, 1125 (2d Cir 1994) (citations omitted)

Stuart Gerson, Assistant Attorney General (Civil Division) in the Bush Administration (Legal Opinion for Commerce Dept., July 9, 1991): ''Though the conclusion is not entirely free from doubt, it does appear the Constitution would permit a statistical adjustment if it would contribute to an accurate population count.''

Stuart Gerson, Assistant Attorney General (Civil Division) in the Bush Administration, (Legal Opinion for Commerce Dept., July 9, 1991): ''By directing the conduct of an 'actual Enumeration' for use in subsequent congressional apportionments, the Framers replaced the 'conjectural ratio' used in the initial apportionment, with a more permanent and precise standard. Nothing in the constitutional debates or any other historical records, insofar as we are aware, indicates any additional intent on the part of the framers to restrict for all time—except by constitutional amendment—the manner in which the census is conducted. Rather, the thrust of the 'actual Enumeration' language appears to be simply that the decennial census should represent an accurate counting of the population 'in such manner as [the Congress] shall by Law direct'.''

* * * * *

''In sum, the essence of enumeration, as the term is both generally and constitutionally understood, is more likely found in the accuracy of census taking rather than in the selection of any particular method, i.e., a headcount.''

Walter Dellinger, Assistant Attorney General in the Clinton Administration (Memorandum for the Solicitor General, Oct. 7, 1994): ''Accordingly, we conclude that the Constitution does not preclude the [Census] Bureau from employing technically and administratively feasible adjustment techniques to correct undercounting in the next decennial census.''

Walter Dellinger, Assistant Attorney General in the Clinton Administration (Memorandum for the Solicitor General, Oct. 7, 1994): ''These discussions [at the constitutional convention] make clear that, in requiring an 'actual' enumeration, the Framers meant a set of figures that was not a matter of conjecture and compromise, such as the figures they had themselves provisionally assumed. An 'actual' enumeration would instead be based, as George Mason put it, on 'some permanent and precise standard'. There is no indication that the Framers insisted that Congress adopt a 'headcount' as the sole method for carrying out the enumeration, even if later refinements in the metric of populations would produce more accurate measures.''

John M. Harmon, Asst. Attorney General (Office of Legal Counsel) in the Carter Administration, (Memorandum dated Sept. 25, 1980): ''In sum, the position that the Constitution prohibits any statistical adjustment is not supportable—not as a matter of semantics, Framers' intent, or Supreme Court case law.''

THE AMERICAN STATISTICAL ASSOCIATION REPORT OF THE CENSUS BLUE RIBBON PANEL

EXECUTIVE SUMMARY

In order to improve the accuracy and to constrain the costs of the Decennial Census for the year 2000 the Census Bureau is planning to make increased use of scientific sampling when conducting the Census. Critics have questioned the Bureau's intent to make greater use of sampling. Their criticism may be based upon a misunderstanding of the scientific basis of the Census Bureau's sampling plans. The President of the American Statistical Association appointed this panel and charged it with considering this aspect of the Bureau's plans and the criticisms of them. In our statement, we point out that sampling is an integral part of the scientific discipline of statistics and explain how its use can be an appropriate part of the methodology for conducting censuses.

Congress directed the Bureau of the Census to develop plans for the 2000 Decennial Census that (1) reduce the undercount, particularly the differential in the undercount across population groups, and (2) constrain the growth of costs. Because sampling potentially can increase the accuracy of the count while reducing costs, the Census Bureau has responded to the Congressional mandate by investigating the increased use of sampling. An additional benefit of sampling is that its appropriate use can also reduce the response burden on the population. We endorse the use of sampling for these purposes; it is consistent with best statistical practice.

BACKGROUND

The Bureau of the Census is planning to improve coverage and constrain the costs of the Decennial Census for the year 2000 by making greater use of scientific sampling. Sampling is not new to the Census; it has been used for decades in compiling the Census. The Census Bureau has employed sampling to monitor and improve the quality of interviewers' work, to reduce respondent burden by asking some questions of only a sample of households, to estimate the number of vacant housing units, and to evaluate the completeness of the Census's coverage of the population. In addition, for the year 2000, the Census Bureau's plans include sampling households that do not respond to the mail questionnaire and are not reached in initial interviewer follow-up. This is a procedure known as sampling for ''non-response follow-up.'' The Census Bureau also plans to use sampling to account for the remaining small percentage of households that cannot be counted in the enumeration. This procedure is referred to as ''integrated coverage measurement.'' This increased use of sampling has been criticized; however, we believe the critics may have misunderstood the scientific basis of the Census Bureau's sampling plans.

Plans for the 2000 Census have been developed in response to a dual Congressional mandate to the Bureau. First, the Census Bureau is charged with improving the population count by reducing the undercount (which increased from 1.2% of the population in 1980 to 1.8% of the population in 1990) and, in particular, with reducing or eliminating the differentially higher undercount of some groups, such as Africa-Americans and Hispanics. Second, the Census Bureau is charged with constraining the cost of the 2000 Census (census costs escalated sharply between 1970 and 1990, even after allowing for inflation and population growth). In carrying out this dual mandate from the Congress, the Census Bureau has considered a variety of procedural and technical improvements to the 2000 Census and has developed plans to use sampling for non-response follow-up and for integrated coverage measurement. The Bureau has also created and consulted with a number of advisory groups and has sought the advice of several National Academy of Science panels.

As the Decennial Census draws nearer, Congress has been monitoring the Bureau's planning process more closely. The Bureau's proposed additional uses of sampling have created some controversy within Congress. Several recent actions, as well as proposed legislation, would affect the Bureau's ability to use sampling in the 2000 Census.

Two bills have been introduced in Congress that would restrict the role of sampling in the 2000 Census. One bill, HR3558, sponsored by Congresswoman Carrie Meek (D-Florida), states that ''the Bureau shall attempt to contact every household directly (whether by mail or in person), and may use sampling as a substitute for direct contact in a particular census tract only after direct contact has been made with at least 90 percent of the households in such tract.'' This bill reflects concern about the Census Bureau's proposed plan to begin the use of sampling for non-response follow-up when 90 percent of the households have been enumerated in each county (counties are usually larger and more diverse geographic areas than are census tracts). The other bill, HR3589, sponsored by Congressman Thomas Petri (R-Wisconsin), states that Title 13 of the U.S. Code shall be amended to add the following: ''In no event may sampling or other statistical procedures be used in determining the total population by states . . . for purposes of the apportionment of Representatives in Congress among the several States.'' This bill would prohibit the use of any sampling to determine population counts used for congressional apportionment. This effectively prevents the use of sampling for any purpose other than collection of demographic or economic data through the ''long form.''

In June, the House Committee on Government Reform and Oversight prepared a report that recommended against sampling in the Census either to complete the field work or to correct the undercount. The committee has not yet considered or voted on the report. In early August, the Senate Committee on Appropriations approved a report to accompany the Fiscal Year 1997 Commerce Department funding bill that would prohibit the Census Bureau from preparing to use sampling in the Decennial Census. The full Senate is expected to consider the bill in September.

This statement has been composed by a panel appointed by the President of the American Statistical Association to consider the Census Bureau's plans to increase the use of sampling in the conduct of the next Census. The purpose of this statement is to point out that sampling is an integral part of the scientific discipline of statistics and to explain briefly how its use can be an appropriate part of the methodology for conducting censuses.

STATEMENT

Uses of and the Scientific Basis for Sampling

Sampling is used widely in science, medicine, government, agriculture, and business because it is the fundamental basis for addressing specific questions in these arenas. Sampling is a critical tool for reducing uncertainty; it is possible to draw conclusions from a scientific sample of empirical observations with specific levels of confidence in our conclusions. Statistics, a branch of applied mathematics, is a rigorous discipline based upon centuries of development of the principles of probability and the empirical study of their applications. The use of sampling combined with the mathematics of

probability provide the basis for drawing scientific inferences from observations. Without this basis, confirming or rejecting scientific theories would be impossible.

Specific areas that use statistical sampling extensively include auditing, market research, quality assurance, approving new drugs, and medical testing. For example, physicians use a sample of blood drawn from a patient to draw conclusions about all the blood in the patient's body. A full census of a patient's blood is not possible, and a small sample is fully adequate to measure the concentration of a specific chemical in the patient's blood system. Sampling permits observations to be made efficiently, economically, and fairly. Without sampling, we would not have quality control in our industries, soil testing in agriculture, or most of the national statistics on which the nation depends. Well-designed samples are used to draw accurate conclusions in many applications. The specific design of a sample in a particular setting depends on the particular problem being addressed. In complex situations such as the census, the detailed sample designs require careful analysis by people skilled and experienced in census taking.

Using Sampling to Improve the Population Count

The appropriate use of sampling can improve the count of a population. The basic idea underlying this conclusion is that some parts of the population will be easier to count and some more difficult. After an effort has been made to reach all households, some number of households will not have been reached; little is known about these households. Well-designed sampling to obtain information about them can reduce what would otherwise be a differential undercount between the easier to count and harder to count groups in the population. The attachment to this statement briefly explains the underlying logic of how sampling can improve population counts and also reduce costs.

In fact, every census is, in some sense, a sample, since everyone cannot be reached. Some countries, more authoritarian than ours, have ordered all people to remain in their homes all day on Census Day until the police or the army have come to count them. In democratic countries, however, everyone cannot be reached and counted. Those who have been counted amount to a sample of the total population, but this is not a sample based on probability theory because the reasons for missing information in the census are not understood. A probability based sample design, as planned by the Census Bureau, permits inferences to be drawn about the entire population with a specified level of confidence. The discipline of statistics largely focuses on reducing uncertainty through the use of sampling and other statistical techniques that permit inferences to be drawn about those missing in a sample. Thus, scientific probability sampling is broadly applicable to census taking.

In addition, sampling can reduce the burden on respondents to the census. Just as it is not necessary to impose on the medical patient the burden of withdrawing all the blood to measure the platelet count, it is not necessary to count every household and every person in the country in order to draw conclusions about the country. Careful design and execution of probability sampling can permit samples to generate data and precise inferences in which we can have considerable confidence. Indeed, the ability to employ sampling is perhaps the single most important element in the government's effort to reduce the burden it imposes on the population from which it collects statistics.

Conclusion

Congress directed the Bureau of the Census to develop plans for the 2000 Decennial Census that (1) reduce the undercount particularly the differential in the undercount across population groups, and (2) constrain the growth of costs. Because sampling has the potential to increase the quality and accuracy of the count and reduce costs, the Census Bureau has responded to the Congressional mandate by investigating the increased use of sampling. An additional benefit of sampling is that its appropriate use can also reduce the response burden on the population. The use of sampling for these purposes is consistent with sound statistical practice.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, September 29, 1997.

To: Honorable Carolyn B. Maloney, Attention: David McMillen
From: American Law Division
Subject: Questions re Legislative Provision for Expedited Judicial Review of Use of sampling and statistical Adjustment in Year 2000 Census

This memorandum is in response to your request for our consideration of four questions dealing with the implementation and likely impact of language added to H.R. 2267, the Commerce, Justice, State, and Judiciary Appropriations Bill. By the terms of the Rule granted the bill by the Committee on Rules, H. Res. 239; H. Rept. 105–264, the provision, set out in the cited report, was adopted upon the adoption of the Rule.

Briefly stated, the provision §209 of H.R. 2267, authorizes ''[a]ny person aggrieved'' by the use of a statistical method of determining population in connection with the year 2000, or later, census, to bring a civil action for declaratory, injunctive, and other appropriate relief against the use of the method on the ground that it is contrary to the Constitution or statute. The definition of an ''aggrieved person'' for purposes of the section is stated to be any resident of a State whose congressional representation or district ''could'' be changed by the use of a statistical method, any Representative or Senator, or either House of Congress. The action authorized is to be heard and determined by a three-judge district court, pursuant to 28 U.S.C. §2284. Expedited appeal direct to the Supreme Court of any decision by the district court is provided for under specified deadlines for filing.

A significant provision, subsection (b), states that ''the use of any statistical method in a dress rehearsal or similar test or simulation of a census in preparation for the use of such method, in a decennial census, to determine the population for purposes of the apportionment or redistricting of members in Congress shall be considered the use of such method in connection with that census.''

Under subsection (d)(2), no appropriated funds may be used for any statistical method, in connection with the decennial census, once a judicial action is filed, until it has been judicially determined that the method is authorized by the Constitution and by act of Congress.

Three of your questions relate to the likelihood of a Supreme Court decision, using the expedited procedure, either by the time of the beginning of the 1998 census dress rehearsal (approximately March 15, 1998) or prior to the census in 2000. Inasmuch as the date of the decision in any such case depends substantially on the filing date of the suit, and the beginning of the running of any period of expedition, we cannot even guess whether a Supreme Court decision would be likely before either event. Certainly, the date of the start of the dress rehearsal, if it is March 15, 1998, is less than six months from now, much less from the time of enactment of the provision, if it is enacted, and from the time a statistical method is tested, if that is sufficient to confer standing. Thus, we can be confident that a decision by March 15, 1998, is highly unlikely. A decision by the beginning of the start of the 2000 census is certainly possible, if a suit may be filed early enough. However, as we indicate below, it is doubtful that anyone would have standing by then, even in light of the section, to bring an action.

We can indicate, from the time line of past cases, especially those where Congress has provided especially for judicial review and expedited consideration, that the courts are enabled to proceed promptly and in less time than with respect to the ordinary case. For example, the most recent case was handled very expeditiously. *Raines* v. *Byrd*, 117 S.Ct. 2312 (1997). Congress in 1996 enacted the Line-Item Veto Act, which went into effect on January 1, 1997. The following day, six Members of Congress filed suit. The District Court handed down its decision on April 10, 1997. Pursuant to the statute's authorization, an appeal was filed in the Supreme Court on April 18, the Court granted review on April 23, and, even though the argument period for the Term had run, special oral argument was entertained on May 27, and the decision by the Supreme Court was rendered on June 26.

Thus, the time from filing in the District Court to the issuance of a decision by the Supreme Court was less than seven months, although we must observe that the decision was based on the lack of standing by the Members, perhaps a less difficult issue than the question on the merits. Nonetheless, the time frame was significant.

Other cases could be cited. For example, in *Bowsher* v. *Synar*, 478 U.S. 714 (1986), testing the constitutionality of certain features of the Gramm-Rudman-Hollings law, the Balanced Budget and Emergency Deficit Control Act of 1985, the courts moved promptly, again acting within a congressionally-enacted provision for expedited judicial review. The President signed the bill into law on December 12, 1985, and suit was filed the same day. A three-judge district court was impaneled, and a decision was issued on February 7, 1986. An appeal was filed in the Supreme Court on February 18, review was granted on February 24, oral argument was held on April 23, and the Court's decision was issued on July 7.

The time line was thus about seven months.

One may assume, therefore, that a suit, properly brought, challenging the use of some form of statistical adjustment, could be processed within a relatively brief time, perhaps within seven months and perhaps within a briefer period. However, that assumption is of little importance, because the substantial question, the hard issue, turns on what party has standing to bring such a suit; that is, when is a suit ''properly brought''?

That the use of statistical methods, of samplings and adjustments, is not a frivolous question is evident. The argument is whether the Constitution in requiring an ''actual Enumeration,'' Art. I, §2, cl. 3, mandates an actual counting or permits some kind of statistical analysis to enhance the count; the further argument is whether Congress, in delegating to the Secretary of Commerce its authority to conduct the census ''in such Manner as [it] shall by Law direct,'' has by instructing him to take ''a decennial census of the population . . . in such form and content as he may determine . . .'', 13 U.S.C. §141(a), supplied him with sufficient authority to supplement or to supplant the

actual count through statistical methods. The Supreme Court has reserved decision on both issues. *Wisconsin* v. *City of New York,* 116 S.Ct. 1091, 1101 nn. 9, 11 (1996).

Courts have entertained suits arising out of these and similar issues. E.g., *Wisconsin* v. *City of New York,* supra; *Franklin* v. *Massachusetts,* 505 U.S. 738 (1992); *Dept. of Commerce* v. *Montana,* 503 U.S. 442 (1992). However, all three cases arose after the actual conduct of or official decision about a particular action that resulted in actual injury to a State or to a political subdivision. These cases, and earlier decisions in the lower courts concerning the 1990 and 1980 censuses, certainly stand for the proposition that polities have standing to sue to contest actions that have already occurred and that have injured them. They do little to advance the inquiry required by §209.

All citizens, of course, have an interest that the Constitution be observed and followed, that laws be enacted properly based on and permitted by the Constitution, and that laws be correctly administered. However, this general interest, shared by all, is insufficient to confer standing on persons as citizens or as taxpayers. *Schlesinger* v. *Reservists Com. to Stop the War,* 418 U.S. 208 (1974); *United States* v. *Richardson,* 418 U.S. 166 (1974). See also *Valley Forge Christian College* v. *Americans United,* 454 U.S. 464, 483 (1982); *Allen* v. *Wright,* 468 U.S. 737, 754 (1984); *Lujan* v. *Defenders of Wildlife,* 504 U.S. 555, 560 (1992). Congress may not overturn this barrier to suit in federal court by devising a test law suit. E.g., *Muskrat* v. *United States,* 219 U.S. 346 (1911) (striking down a statute authorizing certain named Indians to bring a test suit against the United States to determine the validity of a law affecting the allocation of Indian lands, in which the attorneys' fees of both sides were to be paid out of tribal funds, deposited in the Treasury).

Standing is one element of the justiciability standard, which limits Article III federal courts to the decision only of cases that properly belong within the role allocated to federal courts. ''[A]t an irreducible minimum,'' the constitutional requisites under Article III for the existence of standing are that the party seeking to sue must personally have suffered some actual or threatened injury that can fairly be traced to the challenged action of the defendant and that the injury is likely to be redressed by a favorable decision. E.g., *Allen* v. *Wright,* 468 U.S., 751; *Lujan* v. *Defenders of Wildlife,* supra, 504 U.S., 560; *Raines* v. *Byrd,* 117 S.Ct., 2317–18. ''We have always insisted on strict compliance with this jurisdictional standing requirement.'' Id., 2317.

The first element, injury in fact, is a particularly stringent requirement. ''[T]he plaintiff must have suffered an 'injury in fact'—an invasion of a legally protected interest which is (a) concrete and particularized, . . . and (b) actual or imminent, not conjectural or hypothetical. ''*Lujan* v. *Defenders of Wildlife,* 504 U.S., 560 (internal quotation marks omitted). As the latter part of the element indicates, a party need not await the consummation of the injury in order to be able to sue. However, as the decisions combining parts of standing and of Article III ripeness show, pre-enforcement challenges to criminal and regulatory legislation will be permitted if the plaintiff can show a realistic danger of sustaining an injury to his rights as a result of the governmental action impending; a reasonable certainty of the occurrence of the perceived threat to a constitutional interest is sufficient to afford a basis for bringing a challenge, provided the court has before it sufficient facts to enable it to intelligently adjudicate the issues. *Buckley* v. *Valeo,* 424 U.S. 1, 113–18 (1976); *Duke Power Co.* v. *Carolina Environmental Study Group,* 438 U.S. 59, 81–2 (1978); *Babbitt* v. *Farm Workers,* 442 U.S. 238, 298 (1979); *Regional Rail Reorganization Act Cases,* 419 U.S. 102, 138–48 (1974). The Court requires, though, particularized allegations that show a reasonable certainty, an actual threat of injury. See *Renne* v. *Geary,* 501 U.S. 312 (1991); *Lujan* v. *Defenders of Wildlife,* 504 U.S., 564–65 & n. 2.

Critically, in any event, the certainty of injury requirement is a constitutional limitation, while the factual adequacy element is a prudential limitation on judicial review. *Regional Rail Reorganization Act Cases,* 419 U.S., 138–48.

Congress is free to legislate away prudential restraints upon the jurisdiction of the courts and to confer standing to the utmost extent permitted by Article III. But, Congress may not legislatively dispense with Article III's constitutional requirement of a distinct and palpable injury to a party or, if the injury has not yet occurred, a realistic danger of its happening. *Warth* v. *Seldin,* 422 U.S. 490, 501 (1975); *Raines* v. *Byrd,* 117 S.Ct., 2318 n. 3. Cf. *United States* v. *SCRAP,* 412 U.S. 669 (1973), disparaged in *Whitmore* v. *Arkansas,* 495 U.S. 149, 159 (1990), asserting that it ''surely went to the outer limit of the law.'' The Court has firmly held that Congress, in pursuit of judicial oversight over government activity in areas of general public interest, areas that would not support standing in the first instance, may not enlarge the scope of judicial review by definitionally expanding the meaning of standing under Article III. *Lujan* v. *Defenders of Wildlife,* 504 U.S., 571–78. ''Whether the courts were to act on their own, or at the invitation of Congress, in ignoring the concrete injury requirement described in our cases, they would be discarding a principle fundamental to the separate and distinct constitutional role of the Third Branch—one of the essential elements that identifies those 'Cases' and 'Controversies' that are the business of the courts rather than of the political branches.'' Id., 576. ''[Statutory] broadening [of] the categories of injury that may be alleged in support of standing is a different matter from abandoning the requirement that the party seeking review must himself have suffered an injury.'' Id., 578 (quoting *Sierra Club* v. *Morton,* 405 U.S. 727, 738 (1972)).

Turning, then, to the proposed §209, we must observe that the precedents strongly counsel that the conferral of standing, especially in its definitional design of injury in fact, would be inadequate to authorize judicial review until the occurrence of the injury, the calculation of population figures showing the gains and losses of seats in the House of Representatives.

First, the conferral of standing in subsections (c)(2) and (3) is likely ineffective. In *Raines* v. *Byrd,* supra, Congress had included in the Line-Item Veto Act authorization for ''[a]ny Member of Congress'' to bring an action to contest the constitutionality of the Act. The Court held that the Members seeking to sue had suffered no personal, individualized injury, only rather an assertion of an institutional injury to their status as Members, that was inadequate under Article III. Conceivably, Members representing a State that lost one or more seats in the House as a result of statistical re-evaluation of the census enumeration could suffer the same injury that all residents of the State incurred, but that injury would be confined as we discuss below.

Second, while either the House of Representatives or the Senate may have interests that could be injured by Executive Branch action, giving either body or both bodies standing to bring an action, what interest either House could assert in the reallocation of seats in the House of Representatives is unclear at best.

Third, §209(a) authorizes ''[a]ny person aggrieved by the use of any statistical method . . . in connection with . . . [a] census, to determine the population for purposes of the apportionment or redistricting of members of Congress . . .'' to bring a court action to challenge the constitutionality of or the statutory basis of the statistical method. Under §209(c)(1), an ''aggrieved person'' is defined to include ''an resident of a State whose congressional representation or district *could* be changed as a result of the use of a statistical method.'' (Emphasis supplied). By §209(b), it is provided that ''the use of any statistical method in a dress rehearsal or similar test or simulation of a census in preparation for the use of such method . . . *shall be considered the use of such method in connection with that census.*'' (Emphasis supplied). That is, any person residing in a state that ''could'' lose House representation as a result of a statistical adjustment of a census may sue as soon as there is ''a dress rehearsal or similar test or simulation of a census.''

The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to congressional conferral either of standing or of ripeness or both.

Under Article III, for a litigant to have standing, he must allege an injury in fact to himself or to an interest; if the injury has not yet occurred, he must allege a strong basis for fear that the injury will happen, that there is a real danger of the injury being felt. The quoted provisions purport to confer standing far beyond this constitutional requirement.

To illustrate, when each census occurs, it is the responsibility of the Bureau of the Census to calculate, using what is called ''the method of equal proportions,'' 2 U.S.C. §2a(a), the number of seats, above the one each State is constitutionally guaranteed, to be allocated to each State, and the numbers are processed by the Department of Commerce, which refers them to the President, who has the responsibility to transmit them to Congress. See generally *Dept. of Commerce* v. *Montana,* 503 U.S. 442 (1992); *Franklin* v. *Massachusetts,* 505 U.S. 788, *Wisconsin* v. *City of New York,* 116 S.Ct. 1091 (1996). The allocation is not final until the President submits the figures to Congress. *Franklin* v. *Massachsuetts,* 505 U.S. 796–801. It is then that the loss of a seat or seats is legally final, and it seems clear that the States losing seats have suffered a cognizable injury, enabling them to bring suit to challenge at least certain aspects of the conduct of the census. Id., 801–803.

Whether residents of a State that has lost one or more seats in the House of Representatives have standing to bring suit is questionable. Certainly, voters in a State in which redistricting is not accomplished through the creation of equally-populated districts have standing to complain about the dilution of their voting strength. E.g., *Wesberry* v. *Sanders,* 376 U.S. 1 (1964); *Darcher* v. *Daggett,* 462 U.S. 725 (1983). And a resident of a congressional district that has been drawn impermissibly using race has standing to challenge that districting. *United States* v. *Hays,* 515 U.S. 737 (1995). But in the context of a State losing a House seat, every resident of that State has a general interest that is shared by all other residents. It is not a particularized injury in fact that is what normally confers standing.

Let us, however, assume that residents would have standing. The injury would not occur until the President transmits the figures to Congress. Even if one could allege the imminent likelihood of injury, a realistic danger of injury, that development is only

going to mature when the census is completed and the calculations are made awarding the correct number of seats to each House. And we hear speak of a challenge to the actual census.

The challenge, however, authorized by §209, is to the use of a statistical method that ''could'' change the result of the census enumeration. An injury in fact would not occur, again, until the result is reported to Congress by the President; an imminent injury in fact could conceivably occur when the Census Bureau and the Commerce Department utilize a statistical adjustment that changes the allocation of seats. But that occurs after the tabulation of the census result and the utilization of a statistical method that changes the result of the census count itself.

The Supreme Court has never approved standing premised on an allegation that a particular governmental action ''could'' cause an injury. Of course, the application of a statistical method ''could'' work a change in the census, but to which States and with what results would be extremely speculative under the best of circumstances.

Moreover, the definition of the ''use of any statistical method'' to include a test, or dress rehearsal, or simulation of a census would confer standing that is even further removed from the occurrence of the event that ''could'' or ''might'' result in an injury. It would be impossible to point to any result of the conduct of a test or whatever that might conceivably occasion the loss of one or more House seats.

Because Congress lacks the power to create a definition of standing or of the imminent likelihood of injury giving standing that would infringe the constitutional requirement of standing—of injury in fact or of the imminent likelihood of injury—it appears extremely likely that the Supreme Court would either strike down the provision, cf. *City of Boerne* v. *Flores*, 117 S.Ct. 2157 (1997), or disregard it. Cf. *Raines* v. *Byrd*, supra.

Finally, we must note §209(e) that purports to authorize any executive branch agency or entity having authority to carry out the census to bring a civil action to obtain a declaratory judgment as to its constitutional and statutory powers in this regard. It seems doubtful that this authority could be exercised. It would likely fall under the principle that no suit may be maintained unless there is adversity between the plaintiffs and the defendants. See *Muskrat* v. *United States*, 219 U.S. 346 (1911). What government agencies have to do is to proceed on the basis of their judgment about their powers, and then they will be subject to suit challenging that judgment. This subsection appears to do nothing less than to authorize an agency to seek an advisory opinion.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

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

Mr. HASTERT. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I believe that every Member of this House can agree that we need to conduct the census that includes all Americans and is free of any partisan manipulation. There are those who say that this no longer can be accomplished by actually counting Americans. They want to restore the statistical methods in order to estimate or guess how many people are in this country. They have thrown up their hands and said an accurate census cannot be done by counting.

Mr. Chairman, it can be done, and in fact it has been done. Once again Washington bureaucrats need to listen and learn from folks outside the beltway.

In testimony before my subcommittee, communities like Milwaukee, Wisconsin, Indianapolis, and Cincinnati describe how they conducted an actual count at accuracy levels higher than those the Census Bureau proposes to achieve with their risky statistical scheme. Census Bureau Director Riche may not trust her ability to count, but Michael Morgan in Milwaukee proved he knew how to do it.

Mr. Chairman, census sampling is a bad idea, but there is a more fundamental question: Is it legal and constitutional to use sampling and statistical adjustment to apportion this House among the States? I believe it is clear that census sampling and statistical adjustments are both illegal and unconstitutional. In that light, to blindly move forward with a $5 million census that could well be thrown out by the Supreme Court would be very foolish.

□ 1815

Article I, section 2 of the Constitution states that actual enumeration of the population be conducted every 10 years.

To enumerate means to count, one-by-one. It does not mean that we should use sampling as a shortcut just because counting might be hard. Nor does it mean that we should use statistical adjustment to manipulate the count so that the results are more to someone else's liking.

The 14th amendment to the Constitution States that ''Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.'' The 14th amendment does not tell us to use statistics; it tells us to count.

Title 13 of the United States Code, section 195, states that ''Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as sampling.''

Mr. Chairman, the statute is crystal clear. While allowing statistical methods for nonconstitutionally required purposes, the 1957 statute explicitly maintained an absolute firewall against the use of statistical methods for reapportionment. This was a wise, bipartisan precaution designed to prevent the census from deteriorating into a partisan power grab.

Mr. Chairman, the Congress reaffirmed this firewall once again in 1976 when it passed into law Title 13, section 141 of the United States Code. This section allows the Secretary broad discretion in the use of statistical methods for nonapportionment purposes. Let me repeat: for nonapportionment purposes.

The supporters of census sampling would have us believe that section 141 allows that sampling be used for reapportionment. That is simply not true. Congress specifically left intact the absolute prohibition on their use of apportionment purposes established in section 195. If Congress had intended that sampling be used for reapportionment, they would have repealed section 195 at that time. They did not.

Mr. Chairman, the law is clear, and I believe that the Justices will confirm that. The Justices know that actual enumeration means to count. Listen to what Justice Scalia said during the last census case, and I quote:

> The text of the Constitution, as I read it, does not say that there will be an estimate of the number of citizens. It talks about actual enumeration. It doesn't even use the word ''census''. It says actual enumeration.

He added, and I quote,

> Adjustment techniques ultimately involve kinds of value choices and are therefore politically manipulable.

Mr. Chairman, the Justices also know that they will ultimately be called on to rule on the legality of sampling. In the case that I just mentioned the city of New York tried to force a statistical adjustment of the census. The Supreme Court ruled that the Secretary of Commerce could not be forced to do so. During the oral arguments, Justice Scalia said that this case will decide whether you must use statistical estimates and the next one will decide whether you may use it.

Mr. Chairman, the Supreme Court will answer that fundamental question sooner or later. My language in this bill is designed to make it sooner. My colleagues on the other side of the aisle should not be afraid to let the Supreme Court rule. It is our duty as the people's representatives to see their tax money is spent wisely, not wasted. The wisest course for Congress today is to take the politics out of the census and let the Supreme Court decide before billions of tax dollars are wasted.

Mr. Chairman, the Mollohan-Shays amendment does not protect the census from political mischief or the taxpayers from fiscal disaster. The Mollohan-Shays amendment will leave taxpayers wide open to multibillion dollar boondoggles. Protect the integrity of our census and the tax dollars of hard-working Americans. Reject the Mollohan-Shays amendment and allow the Supreme Court to rule.

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

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. DAVIS].

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS. Mr. Chairman, I rise in support of the Mollohan-Shays amendment.

Mr. Chairman, I rise today and join my colleagues in strong support of the Mollahan-Shays amendment. This amendment is about

ensuring an accurate count of the 2000 census. The Constitution requires an accurate count, not a headcount. This amendment would allow the use of statistical sampling to conduct the 2000 census.

Since 1790, during the first census there was a significant undercount especially among minorities. Two hundred years later in 1990, it is estimated that the census missed 10 percent of the population. The Government Accounting Office estimates that as many as 26 million people were missed. Locally, in the State of Illinois, the undercount was about .98 percent. In Cook County undercount was about 1.6 percent. The city of Chicago undercount was about 2.4 percent.

Furthermore, African-Americans were said to have anywhere from a 5–6 percent undercount; Latinos were about 5 percent; and Asian Pacific Islanders were about a 3-percent undercount.

The statistics demonstrate that the poor and mainly racial minorities are seriously missed. Africans-Americans are 7 times as likely to be missed as Whites. That translates into being—7 times more likely to be denied resources and representation in Congress, State legislatures, city councils, county boards and other political subdivision. An undercount among minorities furthers their deprivation to Federal money while devaluing their political power. Billions of Federal dollars are at stake. Governmental agencies often use census data to dole out money or at least to determine targeted areas for distribution. There are some 120 federally-funded programs that move approximately $150 billion a year, which use the census data in their formulation for distribution.

In 1990, children made up only one-fourth of the population but accounted for 52 percent of the undercount. The children, the most vulnerable people in our society have been denied representation and valuable resources because of this significant undercount.

This amendment simply seeks to ensure that each and every individual is counted without regard to color, wealth, or status. This amendment protects both the urban and rural dweller.

If the primary goals of the upcoming census are to reduce cost and to eliminate the differential undercount, then let's take the politics out of the census. The real issue is how to get the most accurate count and the real answer is sampling.

Statistical sampling and estimation techniques have been proposed as a means to finish the undercount for the 10 percent that are the hardest to reach—the hardest to find, the left out, the hopeless and helpless, traditionally minorities and the poor. This is not the first time that sampling has been used in the census. This approach has also been endorsed by expert panels of the National Academy of Sciences, the American Statistical Association, the Commerce Department's Inspector General, the GAO and various other professional organizations.

As a matter of fact, three separate panels convened by the National Academy of Sciences have recommended that the Census Bureau use sampling in the 2000 census to save money and improve accuracy. The commerce IG has said that sampling and statistical methods are the only way to eliminate the historic, disproportionate undercount of people of color and the poor.

Ten percent of the count in 1990 was wrong. The Census Bureau will make an unprecedented effort to count all Americans directly. Sampling is scientific, not guessing.

Conducting the most accurate census must be the goal for the 2000 census, that goal cannot be met without the use of sampling. We owe it to ourselves and we owe it to the American people.

Therfore, I urge my colleagues to join me in support of this amendment that would allow for the use of statistical sampling.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

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

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the Mollohan-Shays amendment.

Mr. Chairman, no one honestly or seriously disputes that the 1990 census undercounted the population. Nor does anyone honestly or seriously dispute the fact that minority populations, blacks and Hispanics especially, as well as rural residents and children were disproportionately undercounted.

Though my colleagues on the other side of the aisle will try to confuse the issue, there is no debate at all within the scientific community that the use of statistical sampling would improve the accuracy of the census.

So what is this debate about? Some have contended that statistical sampling may be a means by which the census would be intentionally distorted. The sponsors of this amendment have dealt with that concern by crafting an amendment that, among other things, provides assurances that sampling will be conducted in a scientific, non-partisan manner.

So what are the real concerns? Well, Mr. Chairman, it is blatantly obvious to me that those who oppose sampling fear that their own political power would be threatened by an accurate census. And, rather than contest for political power out in the open, they prefer a system that denies millions of Americans the representation they are due under our Constitution.

In the end, what this debate is about is whether we reject the view that some people may as well be invisible and whether we will abide by the principle of one man-one vote. I urge my colleagues to support the Mollohan-Shays amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY], who is the ranking minority member on the Subcommittee on Government Management, Information, and Technology of the Committee on Government Reform and Oversight.

Mrs. MALONEY of New York. Mr. Chairman, sending the census sampling issue before the Supreme Court certainly sounds like a righteous compromise, but beware of a wolf in sheep's clothing. The Supreme Court will decide in favor of sampling, but while we are waiting as long as a year, the stalling will kill sampling for the 2000 census. Indecision will become the decision. Missing the Census Bureau deadlines for as long as a year means certain death for a fair and accurate census.

There has been a great deal of misinformation that has been bandied about, and I would like to set the record straight on the Census Bureau's plan. What the Census Bureau plans to do will be the largest peacetime mobilization ever. Ninety percent of the people will be counted using traditional methods. People will be contacted four times through the mail. They will be contacted by phone for the first time. Community outreach will include forms that are in post offices, stores, churches, malls, and TV ads are in the works.

Then the Bureau will begin to knock on doors, but we know that many of these doors will remain shut because people do not open their doors to strangers, they are not there, they are at work. And only for the last 10 percent, for those people who could not be reached by mail, phone, a knock on the door, or through the media, only for that last 10 percent will statistical sampling be used.

Mr. Chairman, we know that some people are more likely to be missed than others. They are our Nation's poor, our Nation's minorities. They are the people who most need to be heard and who are most often silenced. The use of sampling is the civil rights issue of the 1990's.

There are hundreds of professional organizations, community groups, editorial boards across the country, experts, who all endorse sampling. The Mollohan-Shays amendment will give people the simple right to the representation that they deserve.

I urge my colleagues to do what is right for all of their constituents. Make sure they can count on us not to count them out in the year 2000 census. Vote for the Mollohan-Shays bipartisan amendment.

Mr. Chairman, I include for the RECORD data from the Congressional Research Service in support of my position. The CRS report says that the Hastert amendment will just block forward-going of an accurate census.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, September 29, 1997.

To: Honorable Carolyn B. Maloney, Attention: David McMillen.

From: American Law Division.

Subject: Questions re Legislative Provision for Expedited Judicial Review of Use of sampling and statistical Adjustment in Year 2000 Census.

This memorandum is in response to your request for consideration of four questions dealing with the implementation and likely impact of language added to H.R. 2267, the Commerce, Justice, State, and Judiciary Appropriations Bill. By the terms of the Rule granted the bill by the Committee on Rules, H. Res. 239; H. Rept. 105–264, the provision, set out in the cited report, was adopted upon the adoption of the Rule.

Briefly stated, the provision §209 of H.R. 2267, authorizes ''[a]ny person aggrieved'' by the use of a statistical method of determining population in connection with the year 2000, or later, census, to bring a civil action for declaratory, injunctive, and other appropriate relief against the use of the method on

the ground that it is contrary to the Constitution or statute. The definition of an ''aggrieved person'' for purposes of the section is stated to be any resident of a State whose congressional representation or district ''could'' be changed by the use of a statistical method, any Representative or Senator, or either House of Congress. The action authorized is to be heard and determined by a three-judge district court, pursuant to 28 U.S.C. §2284. Expedited appeal direct to the Supreme Court of any decision by the district court is provided for under specified deadlines for filing.

A significant provision, subsection (b), states that ''the use of any statistical method in a dress rehearsal or similar test or simulation of a census in preparation for the use of such method, in a decennial census, to determine the population for purposes of the apportionment or redistricting of members in Congress shall be considered the use of such method in connection with that census.''

Under subsection (d)(2), no appropriated funds may be used for any statistical method, in connection with the decennial census, once a judicial action is filed, until it has been judicially determined that the method is authorized by the Constitution and by act of Congress.

Three of your questions relate to the likelihood of a Supreme Court decision, using the expedited procedure, either by the time of the beginning of the 1998 census dress rehearsal (approximately March 15, 1998) or prior to the census in 2000. Inasmuch as the date of the decision in any such case depends substantially on the filing date of the suit, and the beginning of the running of any period of expedition, we cannot even guess whether a Supreme Court decision would be likely before either event. Certainly, the date of the start of the dress rehearsal, if it is March 15, 1998, is less than six months from now, much less from the time of enactment of the provision, if it is enacted, and from the time a statistical method is tested, if that is sufficient to confer standing. Thus, we can be confident that a decision by March 15, 1998, is highly unlikely. A decision by the beginning of the start of the 2000 census is certainly possible, if a suit may be filed early enough. However, as we indicate below, it is doubtful that anyone would have standing by then, even in light of the section, to bring an action.

We can indicate, from the time line of past cases, especially those where Congress has provided especially for judicial review and expedited consideration, that the courts are enabled to proceed promptly and in less time than with respect to the ordinary case. For example, the most recent case was handled very expeditiously. *Raines* v. *Byrd,* 117 S.Ct. 2312 (1997). Congress in 1996 enacted the Line-Item Veto Act, which went into effect on January 1, 1997. The following day, six Members of Congress filed suit. The District Court handed down its decision on April 10, 1997. Pursuant to the Statute's authorization, an appeal was filed in the Supreme Court on April 18, the Court granted review on April 23, and, even though the argument period for the Term had run, special oral argument was entertained on May 27, and the decision by the Supreme Court was rendered on June 28.

Thus, the time from filing in the District Court to the issuance of a decision by the Supreme Court was less than seven months, although we must observe that the decision was based on the lack of standing by the Members, perhaps a less difficult issue than the question on the merits. Nonetheless, the time frame was significant.

Other cases could be cited. For example, in *Bowsher* v. *Synar,* 478 U.S. 714 (1986), testing the constitutionality of certain features of the Gramm-Rudman-Hollings law, the Balanced Budget and Emergency Deficit Control Act of 1985, the courts moved promptly, again acting within a congressional-enacted provision for expended judicial review. The President signed the bill into law on December 12, 1985,and suit was filed the same day. A three-judge district court was impaneled, and a decision was issued on Feburary 7. 1986. An appeal was filed in the Supreme Court on February 18, review was granted on February 24, oral argument was held on April 23, and the Court's decisions was issued on July 7.

The time line was thus about seven months.

One may assume, therefore, that a suit, properly brought, challenging the use of some form of statistical adjustment, could be processed within a relatively brief time, perhaps within seven months and perhaps within a briefer period. However, that assumption is of little importance, because the substantial question, the hard issue, turns on what party has standing to bring such a suit; that is, when is a suit ''properly brought''?

That the use of statistical methods, of samplings and adjustments, is not a frivolous question is evident. The argument is whether the Constitution in requiring an ''actual Enumeration,'' Art. I, §2, cl. 3, mandates an actual counting or permits some kind of statistical analysis to enhance the count; the further argument is whether Congress, in delegating to the Secretary of Commerce its authority to conduct the census ''in such Manner as [it] shall by Law direct,'' has by instructing him to take ''a decennial census of the population . . . in such form and content as he may determine . . .'', 13 U.S.C. §141(a), supplied him with sufficient authority to supplement or to supplant the actual count through statistical methods. The Supreme Court has reserved decision on both issues. *Wisconsin v. City of New York,* 116 S.Ct. 1091, 1101 nn. 9, 11 (1996).

Courts have entertained suits arising out of these and similar issues, E.g., *Wisconsin v. City of New York,* supra; *Franklin v. Massachusetts,* 505 U.S. 738 (1992); *Dept. of Commerce v. Montana,* 503 U.S. 442 (1992). However, all three cases arose after the actual conduct of or official decision about a particular action that resulted in actual injury to a State or to a political subdivision. These cases, and earlier decisions in the lower courts concerning the 1990 and 1980 censuses, certainly stand for the proposition that polities have standing to sue to contest actions that have already occurred and that have injured them. They do little to advance the inquiry required by §209.

All citizens, of course, have an interest that the Constitution be observed and followed, that laws be enacted properly based on and permitted by the Constitution, and that laws be correctly administered. However, this general interest, shared by all, is insufficient to confer standing on persons as citizens or as taxpayers. *Schlesinger v. Reservists Com. to Stop the War,* 418 U.S. 208 (1974); *United States v. Richardson,* 418 U.S. (1974). See also *Vallety Forge Christian College v. Americans United,* 454 U.S. 464, 483 (1982); *Allen v. Wright,* 468 U.S. 737, 754 (1984); *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560 (1992). Congress may not overturn this barrier to suit in federal court by devising a test law suit. *E.g., Muskrat v. United States,* 219 U.S. 346 (1911) (striking down a statute authorizing certain named Indians to bring a test suit against the United States to determine the validity of a law affecting the allocation of Indian lands, in which the attorneys' fees of both sides were to be paid out of tribal funds, deposited in the Treasury).

Standing is one element of the justiciability standard, which limits Article III federal courts to the decision only of cases that properly belong within the role allocated to federal courts. ''[A]t an irreducible minimum,'' the constitutional requisites under Article III for the existence of standing are that the party seeking to sue must personally have suffered some actual or threatened injury that can fairly be traced to the challenged action of the defendant and that the injury is likely to be redressed by a favorable decision. E.g., *Allen v. Wright,* 468 U.S., 751; *Lujan v. Defenders of Wildlife,* supra, 504 U.S., 560; *Raines v. Byrd,* 117 S.Ct., 2317–18, ''We have always insisted on strict compliance with this jurisdictional standing requirement.'' Id., 2317.

The first element, injury in fact, is a particularly stringent requirement. ''[T]he plaintiff must have suffered an 'injury in fact'—an invasion of a legally protected interest which is (a) concrete and particularized, . . . and (b) actual or imminent, not conjectural or hypothetical.'' *Lujan v. Defenders of Wildlife,* 504 U.S., 560 (internal quotation marks omitted). As the latter part of the element indicates, a party need not await the consummation of the injury in order to be able to sue. However, as the decisions combining parts of standing and of Article III ripeness show, pre-enforcement challenges to criminal and regulatory legislation will be permitted if the plaintiff can show a realistic danger of sustaining an injury to his rights as a result of the governmental action impending; a reasonable certainty of the occurrence of the perceived threat to a constitutional interest is sufficient to afford a basis for bringing a challenge, provided the court has before it sufficient facts to enable it to intelligently adjudicate the issues, *Buckley v. Valeo,* 424 U.S. 1, 113–18 (1976); *Duke Power Co. v. Carolina Environmental Study Group,* 438 U.S. 59, 81–2 (1978); *Babbitt v. Farm Workers,* 442 U.S. 289, 298 (1979); *Regional Rail Reorganization Act Cases,* 419 U.S. 102, 138–48 (1974). The Court requires, though, particularized allegations that show a reasonable certainty, an actual threat of injury. See *Renne v. Geary,* 501 U.S. 312 (1991); *Lujan v. Defenders of Wildlife,* 504 U.S., 564–65 & n. 2.

Critically, in any event, the certainty of injury requirement is a constitutional limitation, while the factual adequacy element is a prudential limitation on judicial review. *Regional Rail Reorganization Act Cases,* 419 U.S., 138–48.

Congress is free to legislate away prudential restraints upon the jurisdiction of the courts and to confer standing to the utmost extent permitted by Article III. But, Congress may not legislatively dispense with Article III's constitutional requirement of a distinct and palpable injury to a party or, if the injury has not yet occurred, a realistic danger of its happening. *Warth v. Seldin,* 422 U.S. 490, 501 (1975); *Raines v. Byrd,* 117 S.Ct., 2318 n. 3. Cf. *United States v. SCRAP,* 412 U.S. 669 (1973), disparaged in *Whitmore v. Arkansas,* 495 U.S. 149, 159 (1990), asserting that it ''surely went to the outer limit of the law.'' The Court has firmly held that Congress, in pursuit of judicial oversight over government activity in areas of general public interest, areas that would not support standing in the first instance, may not enlarge the scope of judicial review by definitionally expanding the meaning of standing under Article III. *Lugan v. Defenders of Wildlife,* 504 U.S., 571–78, ''Whether the courts were to act on their own, or at the invitation of Congress, in ignoring the concrete injury requirement described in our cases, they would be discarding a principle fundamental to the separate and distinct constitutional role of the Third Branch—one of the essential elements that identifies those 'Cases' and 'Controversies' that are the business of the courts rather than of the political

branches.'' Id., 576. ''[Statutory] broadening [of] the categories of injury that may be alleged in support of standing is a different matter from abandoning the requirement that the party seeking review must himself have suffered an injury.'' Id., 578 (quoting *Sierra Club v. Morton*, 405 U.S. 727, 738 (1972)).

Turning, then, to the proposed §209, we must observe that the precedents strongly counsel that the conferral of standing, especially in its definitional design of injury in fact, would be inadequate to authorize judicial review until the occurrence of the injury, the calculation of population figures showing the gains and losses of seats in the House of Representatives.

First, the conferral of standing in subsections (c)(2) and (3) is likely ineffective. In *Raines v. Byrd*, supra, Congress had included in the Line-Item Veto Act authorization for ''[a]ny Member of Congress'' to bring an action to contest the constitutionality of the Act. The Court held that the Members seeking to sue had suffered no personal, individualized injury, only rather an assertion of an institutional injury to this status as Members, that was inadequate under Article III. Conceivably, Members representing a State that lost one or more seats in the House as a result of statistical re-evaluation of the census enumeration could suffer the same injury that all residents of the State incurred, but that injury would be confined as we discuss below.

Second, while either the House of Representatives or the Senate may have interests that could be injured by Executive Branch action, giving either body or both bodies standing to bring an action, what interest either House could assert in the reallocation of seats in the House of Representatives is unclear at best.

Third, §209(a) authorizes ''[a]ny person aggrieved by the use of any statistical method . . . in connection with . . . [a] census, to determine the population for purposes of the apportionment or redistricting of members of Congress . . .'' to bring a court action to challenge the constitutionality of or the statutory basis of the statistical method. Under §209(c)(1), an ''aggrieved person'' is defined to include ''any resident of a State whose congressional representative or district *could* be changed as a result of the use of a statistical method.'' (Emphasis supplied). By §209(b), it is provided that ''the use of any statistical method in a dress rehearsal or similar test or simulation of a census in preparation for the use of such method . . . *shall be considered the use of such method in connection with that census.*'' (Emphasis supplied). That is, any person residing in a state that ''could'' lose House representation as a result of a statistical adjustment of a census may sue as soon as there is ''a dress rehearsal or similar test or simulation of a census.''

The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to congressional conferral either of standing or of ripeness or both.

Under Article III, for a litigant to have standing, he must allege an injury in fact to himself or to an interest; if the injury has not yet occurred, he must allege a strong basis for fear that the injury will happen, that there is a real danger of the injury being felt. The quoted provisions purport to confer standing far beyond this constitutional requirement.

To illustrate, when each census occurs, it is the responsibility of the Bureau of the Census to calculate, using what is called ''the method of equal proportions,'' 2 U.S.C. §2a(a), the number of seats, above the one each State is constitutionally guaranteed, to be allocated to each State, and the numbers are processed by the Department of Commerce, which refers them to the President, who has the responsibility to transmit them to Congress. See generally *Dept. of Commerce v. Montana*, 503 U.S. 442 (1992); *Franklin v. Massachusetts*, 505 U.S. 788, *Wisconsin v. City of New York*, 116 S.Ct. 1091 (1996). The allocation is not final until the President submits the figures to Congress. *Franklin v. Massachusetts*, 505 U.S., 796–801. It is then that the loss of a seat or seats is legally final, and it seems clear that the States losing seats have suffered a cognizable injury, enabling them to bring suit to challenge at least certain aspects of the conduct of the census. Id., 801–803.

Whether residents of a State that has lost one or more seats in the House of Representatives have standing to bring suit is questionable. Certainly, voters in a State in which redistricting is not accomplished through the creation of equally-populated districts have standing to complain about the dilution of their voting strength. E.g., *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Darcher v. Daggett*, 462 U.S. 725 (1983). And a resident of a congressional district that has been drawn impermissibly using race has standing to challenge that districting. *United States v. Hays*, 515 U.S. 737 (1995). But in the context of a State losing a House seat, every resident of that State has a general interest that is shared by all other residents. It is not a particularized injury in fact that is what normally confers standing.

Let us, however, assume that residents would have standing. The injury would not occur until the President transmits the figures to Congress. Even if one could allege the imminent likelihood of injury, a realistic danger of injury, that development is only going to mature when the census is completed and the calculations are made awarding the correct number of seats to each House. And we hear speak of a challenge to the actual census.

The challenge, however, authorized by §209, is to the use of a statistical method that ''could'' change the result of the census enumeration. An injury in fact would not occur, again, until the result is reported to Congress by the President; an imminent injury in fact could conceivably occur when the Census Bureau and the Commerce Department utilize a statistical adjustment that changes the allocation of seats. But that occurs after the tabulation of the census result and the utilization of a statistical method that changes the result of the census count itself.

The Supreme Court has never approved standing premised on an allegation that a particular governmental action ''could'' cause an injury. Of course, the application of a statistical method ''could'' work a change in the census, but to which States and with what results would be extremely speculative under the best of circumstances.

Moreover, the definition of the ''use of any statistical method'' to include a test, or dress rehearsal, or simulation of a census would confer standing that is even further removed from the occurrence of the event that ''could'' or ''might'' result in an injury. It would be impossible to point to any result of the conduct of a test or whatever that might conceivably occasion the loss of one or more House seats.

Because Congress lacks the power to create a definition of standing or of the imminent likelihood of injury giving standing that would infringe the constitutional requirement of standing—of injury in fact or of the imminent likelihood of injury—it appears extremely likely that the Supreme Court would either strike down the provision, cf. *City of Boerne v. Flores*, 117 S.Ct. 2157 (1997), or disregard it. Cf. *Raines v. Byrd*, supra.

Finally, we must note §209(e) that purports to authorize any executive branch agency or entity having authority to carry out the census to bring a civil action to obtain a declaratory judgment as to its constitutional and statutory powers in this regard. It seems doubtful that this authority could be exercised. It would likely fall under the principle that no suit may be maintained unless there is adversity between the plaintiffs and the defendants. See *Muskrat v. United States*, 219 346 (1911). What government agencies have to do is to proceed on the basis of their judgment about their powers, and then they will be subject to challenging that judgment. This subsection appears to do nothing less than to authorize an agency to seek an advisory opinion.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 29, 1997

SUPPORT MOLLOHAN-SHAYS

CRS: Supreme Court Review Won't Happen

DEAR COLLEAGUE: Last week the Rules Committee changed the restrictive language on the census in the Commerce, Justice, State Appropriations bill at the request of Rep. Hastert, to ban the use of modern statistical methods pending a court decision. Proponents of the Hastert language argue that they have provided a compromise, but in reality this is just another attempt to stop the census from counting everyone.

We have always believed that it is legal to use sampling in the Census, based on Supreme Court decisions and opinions from the Justice Department under three Presidents. Because we take seriously concerns about partisan manipulation of the census, we support the Mollohan-Shays Amendment setting up a three-member bipartisan panel to oversee Census 2000. Mr. Hastert instead proposed a court review. Today we received a memorandum from the Congressional Research Service responding to a request to analyze the Hastert language. In short, the Hastert language will not result in a decision on the constitutionality of sampling, it will only block the use of appropriated funds.

The first issue is what lawyers call standing: whether someone can sue over the use of sampling in the census. In other words, has someone been injured by a government action, and can thus use the courts to address that injury. The Hastert language tries to get around this issue by declaring in the bill who has standing to sue. Unfortunately, the Constitution does not allow that. There is a Constitutional test to determine who has standing in a case, and Congress cannot bypass that requirement in a law. As CRS said, ''The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to Congressional referral either of standing or of ripeness or both.''

Even if standing were not a constitutional problem for the Hastert proposal, the Supreme Court has made it quite clear that a challenge to the census must take place after the numbers are final. As the CRS report says, ''[W]e must observe that the precedents strongly counsel that the conferral of standing, especially in its definitional design of injury in fact, would be inadequate to authorize judicial review until the occurrence of injury, the calculation of population figures showing the gains and losses of seats in the House of Representatives.''

The CRS memorandum is quite clear that this language will not work. ''The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to congressional conferral either of

standing or of ripeness or both.'' The memorandum goes on to say ''. . . it appears extremely likely that the Supreme Court would either strike down the provision, or disregard it.''

Only the Mollohan-Shays Amendment works towards a fair and accurate census.

CAROLYN MALONEY,
CHRISTOPEHR SAHYS,
Members of Congress.

PROFESSIONAL ORGANIZATIONS THAT HAVE ENDORSED THE USE OF SAMPLING IN THE 2000 CENSUS

National Academy of Sciences Panel on Census Requirements in the Year 2000 and Beyond.

National Academy of Sciences Panel to Evaluate Alternative Census Methods.

American Statistical Association.

American Sociological Association.

Council of Professional Associations on Federal Statistics.

National Association of Business Economists.

Association of University Business and Economic Research.

Association of Public Data Users.

Decision Demographics.

Mr. HASTERT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, I rise today in strong opposition to the Mollohan amendment on census sampling, and in support of the provision offered by the gentleman from Illinois [Mr. HASTERT].

As a former judge I want to stress that sampling is neither a Republican issue nor a Democratic issue. It is a legal issue and a constitutional issue which ultimately should and must be settled by the U.S. Supreme Court, not a politicized commission as proposed by the Mollohan amendment. By defeating the Mollohan amendment, we will help clear the way for enactment of the Hastert provision.

Now, here is what the Hastert provision does. First, it recognizes that the legislative and executive branches have reached an unresolvable impasse on the subject of sampling and statistical adjustment. Then it asks the judicial branch to fulfill the role envisioned for it by the Founding Fathers in the Constitution, and step in and decide this dispute through the court system. Then it protects the taxpayer by getting a court decision on the legality of sampling and statistical adjustment before billions of taxpayer dollars are spent and potentially wasted.

Now, just like a judge would issue a temporary restraining order to prevent further harm in a dispute between two private parties, the Hastert provision would move to protect the taxpayers from potential harm by putting a temporary hold on funding for sampling while the court hears the case. Once the Supreme Court has reached a final decision, the temporary funding hold is removed and the Census Bureau will be free to spend money in compliance with the law as determined by the court.

Mr. Chairman, I urge my colleagues to defeat the Mollohan amendment and to allow the enactment of the Hastert provision. Then we will count. We will count the poor, we will count the minorities, we will count all Americans, as is required by the Constitution.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of the Mollohan-Shays amendment. The Census Bureau needs the full $381.8 million appropriated in fiscal year 1998 to prepare for the Census 2000. Fencing off all but $100 million would jeopardize critical components of census preparation, including the dress rehearsal and the preparation of the long form.

As Members of Congress, we depend on the accurate information provided by the census to give us insight into our changing communities and constituencies. If this amendment is not passed and data is not collected in Census 2000, we will lose the only reliable and nationally comparable source of information on our population. Both the private and public sectors, including State, county and municipal agencies, educators and human service providers, corporations, researchers, political leaders, and Federal agencies rely on the census long form.

The Mollohan-Shays amendment is critical if we are to prevent the mistakes that were made in 1990. I served on the Committee on Post Office and Civil Service during the 1990 census and I saw firsthand the mistakes that were made.

According to the GAO, the 1990 census got 10 percent of the count wrong. Over 26 million people were missed, double-counted, or counted in the wrong place. Let me quote from the GAO Capping report on the 1990 census, which makes it clear that a straight count will not work. GAO reported that, ''the current approach to taking the census needs to be fundamentally reassessed.''

''The current approach to taking the census appears to have exhausted its potential for counting the population cost-effectively,'' et cetera.

''Specifically, the amount of error in the census increases precipitously as time and effort are extended to count the last few percentages of the population.''

There is, my friends, strong scientific evidence that sampling will result in the most accurate census possible. The experts agree that spending more money to go door-to-door will result in errors as large or larger than 1990, and that the 2000 census will be more accurate for all congressional districts than 1990, 19 times more accurate for the Nation.

As a result of the GAO evaluation and bipartisan direction from Congress, the Census Bureau turned to the National Academy of Science for advice. The first panel said, ''physical enumeration or pure 'counting' has been pushed well beyond the point at which it adds to the overall accuracy of the census.''

That panel went on to recommend a census that started with a good faith effort to count everyone, but then truncate physical enumeration and use sampling to estimate the characteristics of the remaining nonrespondents.

Following these recommendations, the Census Bureau announced in February of 1995 a plan for the 2000 census which makes an unprecedented attempt to count everyone by mail, followed by door-to-door enumeration until reaching 90 percent of the households in each census tract. A sample of households is then used to estimate the last 10 percent.

I know my time has expired. A whole list of scientific organizations agree with it. It will save money, and it will be an accurate count.

Mr. HASTERT. Mr. Chairman, I yield myself 15 seconds just to inform the gentlewoman from Maryland that the Census Bureau gets all of the money that they asked for, it is not fenced off, and so she is misinformed.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Kentucky [Mr. ROGERS], chairman of the subcommittee.

□ 1830

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

Mr. Chairman, I rise in opposition to the Mollohan amendment and in support of the provisions in the bill regarding the 2000 census. While I certainly respect and appreciate the efforts of my distinguished ranking member, the gentleman from West Virginia [Mr. MOLLOHAN], and I know that his intention is good, his amendment fails to address any of the real issues surrounding the 2000 census.

My colleagues, this is one of the most important issues that will come before the Congress. It is the Congress' constitutional responsibility to ensure that an actual enumeration of the population is conducted once every 10 years. Those are the words in the Constitution.

There is no other activity conducted by the Federal Government that has more of an impact on the daily lives of each and every one of our constituents. The census is used for everything, from ensuring that our constituents' constitutional right of one person-one vote is upheld, to determining how Federal dollars are apportioned to our communities.

Many of us are all too familiar with the consequences of a disputed census. In 1990, the American taxpayer spent $2.6 billion on the 1990 census. What did we get? A botched census, a census whose results were litigated for most of the decade, a census whose results will forever be questioned. We cannot afford another disaster like 1990. But that is exactly where we are headed if the Congress does not accept its responsibility

to ensure that the 2000 census is above reproach.

The administration's plan for the 2000 census represents the most radical departure from the manner in which the census has been conducted for the last 200 years. Serious doubts have been raised about whether the administration is planning a fair census, a legal census, a constitutional census. Many of us believe the administration plans are not fair, and that they will not result in a more accurate census.

Why? For starters, we have already seen how dangerous an error-prone statistical manipulation can be in the census. In 1990, over the objections of the Census Bureau ''experts'', the Secretary of Commerce refused to adjust the census numbers using statistics because he thought they were inaccurate. He was right. Years after the fact the same Census Bureau ''experts'' discovered their statistically manipulated numbers had overestimated the number of people missed by millions, and because of a computer glitch would have mistakenly caused Pennsylvania to lose a seat in this body.

Just last month, the Census Bureau had to retract their own report extolling the accuracy of their census plans because a computer glitch underestimated the error rates. But even more importantly, unlike 1990, we are not even going to have an actual count of the population. Why? Because the administration only wants to count 90 percent of us, and then guess the rest. So how will we ever know what the actual count was, and how will we ever know if statistical adjustment is more accurate? The answer is, we never will. The administration expects us to trust the experts, the same ones that recommended we use faulty numbers to adjust the 1990 census.

But even more fundamental to this debate is the question of whether the administration's plans are legal and constitutional. Many of us believe they are not. We can debate those issues all day and night. It would not matter, because only the courts can decide that, and the courts will decide that, one way or the other. The only question is, when.

Under the bill, we say, have the courts resolve the questions now before we spend $4 billion on a census that is likely to be held illegal or unconstitutional. Does the Mollohan amendment address those questions? No. Even worse, it strikes the very provisions in the bill that would ensure the courts answer these questions before the fact.

In fact, instead of addressing any of these serious questions surrounding the census, the Mollohan amendment avoids them entirely, and instead tries to say that the only concern surrounding the census is the threat of political manipulation. That is just not the case, though certainly, given the track record of this administration, I can understand how people would be so concerned.

Even if it were the only concern, the Mollohan amendment is not the answer. Why? Because the commission has neither the expertise nor the power to oversee the administration's complicated, convoluted census 2000.

If Members want to know how well an oversight commission works, we have a recent example, the Teamsters election. The taxpayers spent $21 million on an oversight board for the Teamsters election, and what was the result? They threw out the election and they are going to start all over again, I guess. They are going to ask us to oversee it a second time. They had better ask us real hard about that. If we need any evidence about whether an oversight commission can protect the census, look to the Teamsters. We will spend $4 billion on the census, and then we will have to start all over again in 2001.

It is the Congress' duty to oversee the census. It is our duty to ensure that it is fair, that it is legal, and that it is constitutional. The Mollohan amendment would have us abdicate that constitutional responsibility.

At a time when the public's faith in the institutions of government is at an all-time low, we have a duty to ensure that the 2000 census is above reproach. Make no mistake about it, the very integrity of the census is at stake here, not to mention a multibillion dollar taxpayer investment.

Mr. Chairman, I urge rejection of the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from California [Ms. ROYBAL-ALLARD].

(Ms. ROYBAL-ALLARD asked and was given permission to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of the Mollohan-Shays amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, if what the gentleman who just spoke wanted to have happen could happen, I would support it. What he said is look, there is a constitutional question here. Let us, before anything happens, go to the United States Supreme Court and ask them to tell us. They will not do it. There is a core principle of American constitutionalism, which conservatives usually adhere to, which says they do not issue advisory opinions. The United States Supreme Court does not decide until there is a case or controversy, defined repeatedly by Justice Scalia, who was quoted only partially on one point, as injury in fact.

We recently had an effort to try to get around that by getting an advisory opinion in effect on the line item veto. The Supreme Court unanimously said, or almost unanimously said no, you cannot have it. What the gentleman from Kentucky is asking for is impossible. What he says is, we will go to court.

But the Supreme Court will not decide it. Standing is a core conservative principle. I thought the gentleman's amendment was written by William O. Douglas. I thought William O. Douglas had channeled himself through to somebody on the other side, because he is the great liberal justice who says there is a constitutional question, let me at it, I will handle it. What in fact the conservatives said is, no. You talk about judicial activism, this is a monument to judicial activism. This is a constitutional question. We will ask the United States Supreme Court for an advisory opinion. It will not give it to you. It requires an injury in fact.

Here is how you define standing. Here is who could bring this lawsuit. Any resident of a State, resident, not even a citizen, any resident of a State whose congressional district could, not was, could, in fact be changed. If you thought that your district might gain under this, you could go in and get an advisory opinion.

The Supreme Court will not do it. No one familiar with this jurisprudence thinks remotely that you could force this. If it were possible, it would be a good way. But remember, we said, we will have to deal with these first through the electoral process and the political process, and only after the fact can you go to court. Who said that? That was done by conservatives to keep the non-elected judiciary from being too intrusive. What the gentleman's amendment does is to reverse that principle of judicial restraint.

Mr. HASTERT. Mr. Chairman, I yield 2 minutes and 40 seconds to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Chairman, there is a story of a very learned doctor of theology, a distinguished minister, who was walking through the park one day. He sees a guy who is kind of an itinerant of sorts, and he is reading the Book of Revelations. The doctor of theology says to him, in a condescending, intellectual way, my good man, ''Do you have any idea at all of what you are reading in the Book of Revelations?'' To which the guy said, ''No, I can't say I understand every little bit of it.'' And he says, ''Then sir, why are you reading it?'' He said, ''Because I know how it ends.''

What I am saying, Mr. Chairman, is I do not believe this is a debate of pointy-headed intellectual bean-counters. I think this is a debate about common sense. Here is how I understand this issue. Under the normal U.S. census procedure, you go to a house. You ask how many folks live there. Three. You go to the second house. How many live there? Seven. How many live in the third house? Six. You write down three, seven, six. You come up with 16.

Now, under the Democratic samplematics, you are doing it a little more creatively. You go to the first house and count three, to the second

house and count seven, and at the third house you go to the drugstore and get yourself a Coca-Cola, and you sample about 20 people there. Then, depending on how many you need, you say, in total, we got maybe 15 to 25 people, depending on how many the folks need back in the office, and that is the count.

Now, let us say that is how this thing works, in layman's terms, so I can understand it. Now think about it in other potential applications. We may want to take a second look at this as Members of Congress. What would be some other potential sampling applications?

How about balancing your checkbook? No problems with overdrafts. How about adjusting your income taxes; you know, sending it to the IRS, and when they start complaining, there is a lot of IRS passion going on these days, you can say, ''Hey, look, I just used sampling to send you what I owed you.''

That has often handicapped us. I will just say that a lot of people sample on their golfing already. On the SAT, for those Members with teenaged kids trying to get into college, sample up the SAT score, 1,500. Speeding tickets: ''Officer, I was going about 100, but I was sampling. Just give it to me at 55.'' That is what this is about.

Mr. Chairman, the 14th Amendment of the United States says it real easy for someone like me and a lot of other folks, that counting the whole number of persons in each State is the way to do your sampling.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I do not believe there is a Member of this House who over the last 5 years has risen in defense of the United States Constitution more than I have. I honestly would tell the Members if I thought statistical sampling was unconstitutional, regardless of the political consequences. I would be rising in support of the Constitution, in defense of the Constitution.

I think this whole constitutional argument is a bogus argument, however, and it fails to read the entire sentence in Article I, Section 2, clause 3 of the Constitution, because that section of the Constitution requires an actual enumeration, but then it goes on to say, ''. . .in such manner as the Congress shall by law direct.'' And all of these gentlemen who have gotten up and talked about requiring a head count seem to be ignoring the second part of the sentence.

Every single Justice Department that has opined on this issue, the Bush Justice Department, the Carter Justice Department, the Clinton Justice Department, have all said that statistical sampling is fine under the Constitution. Every single court that has addressed this issue has said that statistical sampling is acceptable under the Constitution.

□ 1845

The Federal District Court, Eastern District of New York, said it is no longer novel or in any sense new law to declare that statistical adjustment of the census is both legal and constitutional because article I, section 2, requires the census to be as accurate as practical. The Constitution is not a bar to statistical sampling. This is a bogus argument that my colleagues are using. Statistical sampling is constitutional.

I rise in support of the amendment.

Mr. HASTERT. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LATHAM], a member of the subcommittee, who is well familiar with bean counters.

Mr. LATHAM. Mr. Chairman, I guess being in the soybean business, we do count a few beans there.

But I think we have to look at what this debate really is all about. We are talking about the census, but really what it gets down to is money and power. It really gets down to the debate of whether we want those things distributed in a fair and honest manner or if we want someone possibly with political motivation to guess at where those things go.

No. 1, with the money, as everyone here knows, and I do not know if the folks at home know that where the Federal dollars are distributed is based on the count, would we rather have an actual real count to know that we are getting our share of Federal dollars or would we like a bureaucrat here in Washington to guess at it?

As far as power, it has to do with how many Representatives we have from our States. If our State is kind of on the bubble here as to whether we are going to lose a seat or gain a seat, do we want that determined by an actual real count or do we want a bureaucrat here in Washington to make that determination for us and mute our voices? It is simply wrong to go that route.

I do not necessarily say that there is going to be politics involved in this census or this guessing that we are proposing do here, but let us look at the record. Has this administration politicized any other departments in government? Look at the FBI. There are 900 files of private citizens for political reasons in the White House today. They brought in over a million citizens last year for the election and did not check the background, for political reasons, of 180,000 of them. There are 30,000 convicted felons in this country because they politically wanted to get more people registered to vote.

Would they politicize the census? What do my colleagues think? We need an honest, fair, real, legal, and constitutional census, and that means to count real people.

Mr. MOLLOHAN. Mr. Chairman, I yield myself 45 seconds to respond to the gentleman, if he would stay at the podium.

I would just like to assure the gentleman, that is precisely the reason. That is the one argument against the census that cannot be refuted by fact, because it is based upon suspicion. That is why we created this oversight board, which is composed of former Presidents, people who have absolute credibility, to give the census credibility, because this kind of a debate that the gentleman just engaged in, in and of itself, is the greatest underminer of public confidence.

Also, with regard to the efficacy of sampling, our own Speaker GINGRICH must have believed in the efficacy of sampling because on April 30, 1991, he wrote, in part, to the Secretary of Commerce, I quote, I respectfully request that the census numbers for the State of Georgia be readjusted to reflect the accurate population of the State so as to include the over 100,000 which were not previously included.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

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

Mr. STENHOLM. Mr. Chairman, though much of the debate on correcting the undercount of the census is centered around the number of people not counted in urban areas, as one who represents a very rural district, I want to highlight the fact that people in rural areas are being missed as well. In fact, some of our rural areas are undercounted to a greater degree than the entire country.

According to the Census Bureau, the net undercount for the Nation in 1990 was 1.6 percent, while rural areas were undercounted at a rate of 5.9 percent. I want to emphasize that accuracy is critical. Let there be no disagreement on that as we prepare for the 2000 census. The Census Bureau should form early and active partnerships with State and local governments so that these governments will have an early opportunity to review census address lists and maps for their area.

This amendment will remove the restrictive language included in the bill and allow the Census Bureau to continue to plan for the 2000 census. Their proposal, which is supported by scientists and statistical experts, should improve accuracy and save costs.

It is fascinating to sit here and listen to colleague after colleague argue against the best science available. I have taken to this well day after day after day, arguing that we should use the best science available, whether we are talking about environmental issues, food safety issues, or census issues. But tonight in this debate, we are being selective as to which science we should use. I find this a fascinating argument to listen to.

I am convinced, absolutely convinced, that statistical sampling is the best method to get an accurate census,

and I urge my colleagues to listen to this debate and to listen to those who are saying that only some science is good and we will be selective in which we choose to agree to. Statistical scientists say that sampling will help us get an accurate count. Is that not what we all should really be for?

I urge my colleagues to support the Mollohan-Shays amendment.

Mr. HASTERT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MILLER]

Mr. MILLER of Florida. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from West Virginia and in opposition to the use of sampling.

I am a former statistics professor. I taught statistics at both the undergraduate and graduate level at several universities. I have respect for sampling, but sampling is used when you do not have enough time or money. What you really want to have is census information, statistics. When you use sampling, you have bias. You have nonsampling bias, and you have sampling bias.

In my first lecture on statistics both at the graduate level and the undergraduate level, I used to use this book, still available to buy in the book store. It is ''How To Lie With Statistics.''

Statistics can be manipulated in a variety of ways that can be legitimately defended. I do not trust statistics. I teach my students to be suspicious of statistics, to be cautious of the use of statistics. I used to make the statement, tell me the point you want me to prove, and I will prove it with statistics, because it can be done.

I know all the statisticians say sampling is great. Statisticians would not have a job if we did not have sampling. That is what statistics is based on. Statisticians are biased to start with.

I think we are doing a good job. What we need to do is do a good census. Dr. Riche is moving in that direction. Let us look at the examples of what took place in Milwaukee and what took place in Cincinnati. We can do a good census. Let us do the job right and not play around with sampling.

Mr. MOLLOHAN. Mr. Chairman, I yield 1¾ minutes to the gentlewoman from Florida [Mrs. MEEK].

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Chairman, first of all, I do not trust statistics any more than the rest of my colleagues. But I trust even less the belief that everyone is going to be counted fairly.

If we look at the history of this, we have never had an accurate count. The under-count has been shown more in African Americans than it has in any other group. Do we want this repeated? Then we are sending a message that we do not want a fair census count.

This country does not look like it did in 1990. You better look around and see that it is different. You see more minorities. There will be even more. So you may as well learn that you have to count them accurately. You cannot count them accurately by the kinds of enumeration that you are doing or that you expect to do.

So it tells me that the issue is that because you know there are more of them than there are of you, that you do not want an accurate count. They are going to be there. They are going to be under the bridges. They are going to be in the homeless shelters. There are going to be people who do not return those things to the census.

All I am saying to you is, it is fruitless, it is crazy, it is a waste of money, but you would rather do that politically and for power than to go to a sampling which the Mollohan amendment is asking us to do. You would rather take that useless method because you do not want to count everybody. You want to go back to the time when there was a serious undercount.

It will repeat itself. It was in 1990, as you see from this chart. It is going to be in the year 2000, because you are going to insist on counting every head.

Mr. Chairman, they cannot enumerate and count every head because they are not going under the bridges, they are not going on the highways and byways of this country to find these little people and count them. If that is the way you want it, then you will not support the Mollohan amendment.

I support the Mollohan amendment because it is fair. African-Americans will be counted. It has got to be done.

Mr. HASTERT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

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

Mr. HYDE. Mr. Chairman, this is a fascinating debate. I listened to my good friend, the gentleman from Texas [Mr. STENHOLM], talk about the scientists. I do not think you have to be a scientist, rocket or otherwise, to read the plain language of the Constitution: ''The actual enumeration,'' those are not tough words, ''shall be made within 3 years after the first meeting of the Congress.''

And then a constitutional scholar, the gentleman from North Carolina [Mr. WATT], brought in the entire text. He said, ''in such a manner as they,'' meaning Congress, ''shall by law direct.''

Well, you cannot by law amend the Constitution. You cannot pass a statute and erase the first three words of article I, ''the actual enumeration.''

It is a stretch to ask us to trust the sampling of the population to an administration that has shown, at best, a reckless disregard for the letter and the spirit of the law.

It goes beyond the Constitution. We have a statute. Title 13, section 195, says, ''Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the secretary shall, if he considers it feasible, authorize the use of the statistical method.'' It specifically excludes counting by sample, by guess, a determination, ''for the purposes of apportionment.''

We want to count everybody. If they are under the bridges, go down there and count them. You are getting paid to count them. Why is that less accurate than guessing how many people are under the bridge? Your administration does not exactly wear a T-shirt saying, ''trust me,'' and engender an awful lot of confidence to have you count how many people there are and where they are and what the districts shall be in the next 10 years.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. MILLER of Florida) assumed the chair.

FURTHER MESSAGE FROM THE SENATE

A further 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 amendment of the Senate to the bill (H.R. 2203) ''An Act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.''

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Committee resumed its sitting.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, because sampling equals one vote and good science and good constitutional support, I rise to support the Mollohan-Shays amendment.

Mr. Chairman, I rise in support of the Mollohan-Shays amendment to H.R. 2267, the Commerce-Justice-State appropriations. This amendment if adopted would add language prohibiting use of any 1998 funds to make irreversible plans or preparations for the use of sampling or any other statistical method, including statistical adjustment, in taking the census for purposes of congressional apportionment. This same language is included in the Senate-passed version of the bill.

This amendment would also create a Board of Observers for a Fair and Accurate Census, with the function of observing and monitoring all aspects of the preparation and execution of Census 2000, to determine whether the process has been manipulated—through sampling, statistical adjustments, or otherwise—in any way that biases the results in favor of any geographic region, population group, or political party.

The constitutional requirements for the census are simple. Article I, section 2 clause 3, as amended by the 14th amendment, provides that the Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.

It has come to my attention that the revised language in the rule regarding the census which would be automatically incorporated into the bill does not as reported provide for an expedited judicial review to determine the legality and constitutionality of sampling for purposes of apportionment or redistricting.

The critical test which would authorize judicial review is standing. From precedents we can be strongly counseled that the conferral of standing, especially in its definitional design of injury in fact, would be inadequate to authorize judicial review until the occurrence of the injury, the calculation of population figures showing the gains and losses of seats in the House of Representatives.

The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to congressional conferral either of standing or ripeness or both.

This would leave Congress in a poor light judicially, because we lack the power to create a definition of standing or of the imminent likelihood of injury giving standing that would infringe the constitutional requirement of standing of injury in fact or of the imminent likelihood of injury. This is not where this body should leave the issue of an accurate census for our Nation.

Under article II, of the Constitution for a litigant to have standing, he must allege an injury in fact to himself or to an interest; if the injury has not yet occurred, he must allege a strong basis for fear that the injury will happen, that there is a real danger of the injury being felt. The quoted provisions purport to confer standing far beyond this constitutional requirement.

If I recall correctly, in the last Congress, a number of proposals came forward which failed to limit the terms of those who serve in this body. Now, that the Census is upon us as a natural mechanism to creating turnover in the House we want a judicial challenge to the use of sampling that most believe is an accurate and reliable means of counting the population of this country.

The legal issue is sampling. Sampling and statistical adjustment of the decennial population census taken for the purpose of apportioning the Representatives in Congress among the States, have become increasingly controversial during the past two decades.

According to a Congressional Research report, the constitutional and statutory language relevant to sampling and statistical techniques appears to be clear, but never the less have been the subject of competing interpretations which would either permit or prohibit sampling and other statistical techniques in the census for apportionment. Although no court has ever decided the issue squarely on point, several courts have expressed opinions in dicta.

Today, some Members of the House of Representatives have declared a political and philosophical Jihad on the use of sampling for the 2000 census.

As a Member of the House Committee on Science, I am here to state clearly that this is not a matter of political philosophy, but scientific fact.

In 1990, the city of Houston, TX, was undercounted by 3.9 percent during that year's census which only recorded 1,630,553 residents. Based on sampling that was prepared for that census, but never used it is estimated that over 66,000 Houstonians were missed by the 1990 census.

It is impossible to count every resident of this country in the time allotted, for the census with the funds which have been appropriated. I am aware of the work done by three separate panels convened by the National Academy of Science which have recommended that the Census Bureau use sampling in the 2000 census to save money and improve census accuracy.

The National Academy of Sciences is a private, nonprofit, self-perpetuating society of distinguished scholars engaged in scientific and engineering research, dedicated to the furtherance of science and technology and to their use for the general welfare.

It is a fact that despite the gains made by the Bureau of the Census in address list development, form design, pre-notice and reminder mailings, and various outreach efforts, exclusive reliance on physical enumeration of all households cannot be successful in 2000. Based on the results of the 1990 census, it is highly unlikely that the Census Bureau can carry out this type of decennial census with acceptable accuracy within the current expected levels of funding.

The ability to use sampling during the 2000 census will ensure that any undercounting which may occur in this census because of sparsely populated regions of States like Texas or more densely populated cities like Houston, and Dallas can be held to a minimum. Undercounting the results of the 2000 census would negatively impact Texas' share of Federal funds for block grants, housing, education, health, transportation, and numerous other federally funded programs. The census, as you know, is also used in projections and planning decisions made by States, counties, and city governments.

I would ask that all of my colleagues support the Mollohan-Shays amendment to the Commerce-Justice-State appropriations.

□ 1900

Mr. MOLLOHAN. Mr. Chairman, I yield 1¾ minutes to the distinguished gentleman from California [Mr. BECERRA].

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

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to read from a document entitled ''How To Use The Language of the 21st Century'' by a pollster often used by a number of Members, mostly Republican Members. It states as follows, regarding Hispanic Americans:

''Our majority is at stake.

''Republicans barely maintained their congressional majority in 1996, and a major reason their support dropped from 1994 was the utter collapse of the Hispanic vote. In all the large key States, California, Texas, Florida and New York, the Hispanic percentage of the total vote is significant and growing.

''We do not need a majority of Hispanics to win a majority of the vote. In areas of heavy Latino concentration, any Republican who wins more than a third of the Latino vote will be elected. It is that simple. But if we allow our percentage among Hispanics to fall below 25 percent, the Bob Dornan loss in California will be repeated again and again.''

We do not want to have a census that counts us all accurately because if we do there is a good chance that we will catch all those Hispanics that were not counted in the 1990 census. And if we look at the 1996 election, we will see that Hispanics are not voting Republican because of all the assaults on the Hispanic community by this Republican majority.

Does it make any sense for the Republicans to want to count all Latinos in this country when they are not voting for Democrats? Is anyone surprised that we do not want to see an accurate count come out of the 2000 census and count the one community that was most undercounted in the 1990 census?

It makes perfect political sense. Unfortunately, we should not be driven by politics in deciding what the Constitution has called one of the most important activities in this country, and that is counting every single American. Unfortunately, with this bill, we do not count every American. If we had the Mollohan-Shays amendment, we would.

We should vote for that amendment because it is the right thing to do. It is not the political thing to do.

Mr. HASTERT. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. WICKER].

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

Mr. WICKER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in the strongest possible opposition to the Mollohan amendment and to the concept of census sampling.

This vote goes to the heart of the question: Will our Nation carry out an honest, accurate and complete census in the year 2000? And, beyond that, to the question: Will the United States have a fair congressional reapportionment in the year 2002?

As my other colleagues have said, my opposition to sampling is based on a variety of reasons. The guessing scheme is unconstitutional, it is contrary to statutory law, it is unreliable, and it is subject to abuse. The Constitution calls for ''actual enumeration,'' and actual enumeration means actual counting. It says count the ''whole number'' in the 14th amendment. The United States Code specifically precludes the use of sampling for determining congressional reapportionment.

The chairman of the subcommittee is right. This may be one of the most significant and far-reaching votes of this entire Congress. The Constitution requires an actual count. Vote ''no'' on the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Chairman, I rise in the strongest possible support of this amendment and also for sampling. It is the fair way to count, it is a proven way to count, and it is scientific. This is the fair way to make sure everybody is included in a democracy.

Mr. Chairman, I am strongly in favor of this important amendment. The impartial, outside experts—including GAO and the National Academy of Sciences agree that sampling must be used in the next census for it is the best method as well as the most cost-effective method.

Undercounting hurts those who are already hurting—the poor, children, rural area, and urban areas. If there is a method that gives them fair billing, why not use it—why use a method that we know, that we know undercounts people. The census numbers are critical for it is upon their foundation that most Federal dollars are distributed.

The census undercount is not just an inner city, minority problem. Rural communities are undercounted, too. And poor rural areas are undercounted to a greater degree than the country as a whole.

The net undercount for the Nation in 1990 was 1.6 percent, or about 4 million people. That's the difference between the 10 million people who were missed and the 6 million who were counted twice, errors that don't cancel each other out because people who are missed don't tend to live in the same neighborhoods as those who are likely to be counted more than once.

By contrast, the undercount of rural renters in 1990 was 5.9 percent. Owner/renter status is a proxy for income, so the proportion of poor rural people who were missed was far greater than the Nation as a whole. Ninety percent of the rural renters missed were not minorities.

Mr. Chairman, in the South, in 1990, the undercount of white renters was 6.23 percent, representing more than 10 percent of the total national undercount. For American Indians living on reservations, the 1990 undercount was more than 12 percent.

We cannot pretend this does not affect large groups of citizens, Mr. Chairman. Vote "yes" on the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

(Ms. DELAURO asked and was given permission to revise and extend her remarks.)

Ms. DELAURO. Mr. Chairman, I thank the gentleman for yielding me this time, and rise in support of the Mollohan-Shays amendment.

A sampling has been verified, it is a practice in the business community, it is the direction we should go.

Mr. MOLLOHAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. SAWYER]. Along with the gentlewoman from New York [Mrs. MALONEY] the gentleman from Ohio has been extremely active on this issue. He is knowledgeable and has done an extremely good job.

Mr. SAWYER. Mr. Chairman, I thank the gentleman for yielding me this time.

The Romans had a phrase that captured the essence of intellectual corruption: ''Video'' meliora proboque deteriora sequor. It means: ''I see the better course of action and approve it, but the worse path is the one I take.'' It could describe our work today.

Before us is a plan to count the Nation. It is legal, it is constitutional and supported by the broad consensus of science. The alternative will doom the census, the underpinning of our democracy, to failure. It will not be above reproach if we follow the language in the bill, it will be below respect.

The heart of the argument is over the use of sampling, which has been a part of the census for seven decades. Now, some say that the Constitution requires ''an actual enumeration'', and I agree, it does. However, as in so many things, history is important and instructive.

Madison and Sherman, in framing the great compromise, struggled to find a formula for proportional representation. Slave State delegates favored property as the rule for representation. They felt their slaves would be included as a measure of wealth and a useful substitute for population. Free States were hostile to slavery as a basis for any form of democracy and argued for an actual measurement of the number of inhabitants, not some measure of wealth as a partial substitute for population. Hence the term ''actual enumeration'' of people as opposed to some other method.

So we ask, what is an actual enumeration as determined by law, by the Congress? Well, in 1790, Thomas Jefferson sent out 600 Federal marshals. It took 8 months and he missed a million people. So in the 1800's they hired tens of thousands of temporary workers, who brought their disparate lists back to Washington where an army of ''census girls'' added them up by hand. In the end of the century, that took over 8 years to complete.

So in 1890 they used a punch card machine to record and tally results untouched by human hands. By 1940 they introduced sampling and have used it ever since. And in 1960 the census used the mails to deliver and collect forms, counting people without ever having knocked on their doors, and they still do today.

In short, as the Nation changes, techniques of actual enumeration have changed, but we still count population, not something else, as the Constitution requires. Still, it has gotten harder, so after the problems of 1990, the Congress did the right thing. We asked the General Accounting Office and the inspector general and the National Academy of Science's National Research Council and panels of outside experts who, to a one and without exception, said build on traditional methods, of course; use the most intensive mail and door-to-door techniques ever tried; and then supplement them with an expanded use of scientific sampling to test and improve the count.

Will that work? Well, let us listen to Speaker GINGRICH, as I have. I have read his book and I have listened to the tape of his course. In both he cites the work of W. Edwards Deming in the use of statistical quality control methods as one of his five pillars of American civilization.

And what does Deming say? He says, in his magnum opus on the topic, that the census is the earliest and largest and most successful full-scale application of statistical quality control, far beyond the dreams of private organizations, attributable to effective statistical work for continual improvement of quality and productivity.

The Speaker knew then what he knows now. Statistical measurements help produce a better result. Because Deming's principles are more valid and compelling today than ever before, ignoring them, failing even to test them next spring, as this bill would prevent, will produce a far worse and much more expensive census.

If Deming were alive today, he would be ashamed of us. He would say shame on us. He would tell us, ''I taught you the better course of action, but the lesser path is the one you take.'' I prefer we do the best we can in counting the Nation. Anything less is a step toward intellectual corruption and a debasement of our democracy.

The Mollohan-Shays amendment will produce the finest count of which this Nation is capable. We have little choice, if we are to respect the constitutional mandate, but to follow it.

Mr. HASTERT. Mr. Chairman, I yield 1 minute to the gentleman from Texas, [Mr. BRADY].

Mr. BRADY. Mr. Chairman, America is so large, I always marvel at the challenge we face each census to count every person in this country. But because we have been conducting a census every 10 years since our Nation was founded, it is remarkably accurate. Even the harshest critics admit the last census was nearly 99 percent accurate.

But as good as that is, nearly 99 percent accurate is not nearly good enough because we rely on our census for a lot of our community goods, our funding and how large a voice we have in our local government, State legislatures and Congress.

As we have heard tonight, the census is so important it is enumerated in the very first article of the Constitution. It is insisted that we count every person in America, not estimated, not guessed at, and not determined by some algorithm of a subset of the percentage of the combined data collection error minus the rostering factor multiplied by the inmoving/outmoving ratio or something complicated.

Sampling is not constitutional. Like all statistics, it is easily manipulated. It is based on lowering our census accuracy to 90 percent and then guessing the rest. The Republican approach is constitutional, it is proven, and it counts real live human beings.

Mr. MOLLOHAN. Mr. Chairman, may I ask how much time remains?

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] has 9½ minutes and the gentleman from Illinois [Mr. HASTERT] has 15¼ minutes remaining.

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

Mr. HASTERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Chairman, I rise in strong opposition to this amendment, and I bring to it some level of experience. From 1983 to 1990 I enforced the Voting Rights Act in Arizona, and in 1990 I represented the Arizona legislature in reapportionment.

Mr. Chairman, no less than the integrity of this Nation is at stake in this amendment. This is not a difficult issue. My colleagues have accurately pointed out that both the United States Constitution specifically requires an actual count and so does Federal law.

This is not a question that is in doubt, but let me urge my colleagues to consider the consequences of what is being proposed by this amendment. Never, I repeat, never in the 200-year history of this country has there been a deliberate attempt to count less than the entire population.

Contrary to what we just heard on that side of the aisle, what the census proposes in this sampling idea is to deliberately count only 90 percent of Americans and then to stop at that point and estimate the rest. Until 1990, the Census Bureau rejected sampling and said it was unconstitutional.

I call on my colleagues to imagine the incentives we are creating. If we tell America we are only going to count, actually count, until we get to 90 percent, and then we are going to sample from that point on, what motive is there for a single American to send in the form; and what faith will they have in this system?

The Constitution says enumerate one-by-one and do an actual count. This is a bad idea and is at the heart of integrity in our government.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

[Mr. FAZIO of California asked and was given permission to revise and extend his remarks.]

Mr. FAZIO of California. Mr. Chairman, I rise in strong support of the Mollohan-Shays amendment which will allow the Census Bureau to conduct a fair and accurate census in the year 2000.

I rise today to urge you to support the Mollohan-Shays amendment which will allow the Census Bureau to conduct a fair and accurate census in the year 2000.

The limited use of sampling is a crucial part of an accurate count and serves only as a supplement to the Census Bureau's aggressive direct counting effort.

The decennial census provides the cornerstone of knowledge about the people of our Nation.

State and local governments use census data to draw legislative districts of equal population.

The Federal Government uses census data to distribute billions of dollars in grants according to population-based formulas.

Federal, tribal, State and local officials study the patterns of detailed census data before constructing hospitals, highways, bridges, and schools.

And businesses use census data when deciding where to locate production facilities and retail outlets.

Ten percent of the count in 1990 was inaccurate, and GAO estimates an error rate of 26 million.

Contrary to popular belief, an undercount affects not only those in urban centers, but also those who live in remote rural areas.

Children and minorities were disproportionately undercounted, resulting in vital Federal services being underallocated for those who need them most.

The 2000 census is an unprecedented effort by the Census Bureau to ensure that all Americans are accounted for wherever they live, and I urge you to support the Bureau's innovative plan for the 2000 census, including sampling, and vote for the Mollohan-Shays amendment today.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

(Ms. MILLENDER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise in strong support of the Mollohan-Shays amendment ensuring that each American is fairly counted.

Mr. Chairman. I rise today in support of the Mollohan-Shays amendment, a bipartisan measure to allow the Census Bureau to use the scientific method of sampling to conduct the decentennial census in the year 2000. The current system is inefficient and expensive and needs to be fixed. There are various undercount problems that need to be solved before the numbers are delivered to the Congress—problems that affect congressional representation. These numbers also affect fundamental Federal community programs for the impoverished. In 1990, the differential undercount, where the census inadvertently omits a higher proportion of the minority population than the majority, was the highest it has been since the 1940's—4.4 percent of blacks, 5.0 percent of Hispanics, 2.3 percent of Asians and Pacific Islanders, and 4.5 percent of American Indians were unaccounted for, compared with only 1.2 percent of non-Hispanic whites.

Sampling is not a new technique. Especially in conducting the census. The method used to develop socio-economic profiles of the U.S. population employs extensive use of sampling. For instance, the Census Bureau's long form is sent to only one in six households. It is used to obtain most of our information about income, educational attainment, ancestry, and housing stock, just to name a few categories.

Sampling methods are not just limited to the Census. Tax legislation is written using data collected by sample surveys. Health legislation is based on the national health, examination, and nutrition survey. Even the consumer price index, whether it is ever reformed or not, will be calculated from two different sample surveys—the point of purchase survey and the consumer expenditure survey. And we rely on scientific sampling and analysis to improve the CPI's accuracy.

All the Census Bureau wants to do is to expand its capabilities to adjust for the undercount before its deadline to report the numbers. Under the Constitution, these are the numbers we use to reapportion our congressional districts. These data are also used for revenue-sharing purposes. So, to oppose sampling methodology to produce one single, accurate figure to be reported, makes no sense. I ask you, Is there some reason my colleagues don't want the census results to be accurate? Is there some reason they don't want the more transient among our population—the minorities, immigrants, low income, and impoverished counted in the official numbers? You tell me, because I can't figure it out. But I agree with a statement by Barbara Baylar, vice president for survey research at the National Opinion Research Center. She explained that:

> Oftentimes the pressures are not to produce data to support some position but not to produce data. All of us can name examples—income data, poverty data—that exerted [such] pressure. Not to produce this data in a timely and efficient manner is a brand of know-nothing-ism that we cannot afford to tolerate in the era of the information age, at the dawn of the new millennium.

This is a serious issue. The 1990 numbers undercounted the United States population by 4 million people. That's 1.6 percent. In the State of California alone, the nonsampling method missed 834,000 people. That's 2.7 percent. The Mollohan-Shays amendment would allow the Census Bureau to conduct its research more accurately and inexpensively, and should be supported by Members on both sides of the aisle. I encourage all of my colleagues to vote ''yes'' on this amendment.

Mr. HASTERT. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

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Mr. CUNNINGHAM. Mr. Chairman, one of the most damning things about this body is the partisan deceit that takes place, partisan deceit for political gain.

This bill allows a 35 percent error rate within a district. Yeah, can you make it up nationally. But look in the past in the gerrymandering and reapportionment. Do you have any doubt where that 35 percent is going to take place? In individual Republican districts.

No, I do not trust. Why? If this body had operated in a bipartisan way, look at the White House union issue with the White House directing money. Look at the FBI files. Look at the INS keeping registration. And in San Diego, they kept Republicans from registering new Members of this body, of this country. Look at China and the Trie and the Huang and the Riady. Look across-the-board at the political manipulation.

My mom told me, ''If you tell enough lies, you are going to go to hell.'' Well,

I want to tell my colleagues something: On Medicare, Medicaid, education and the environment, the Democrat leadership is going to need a big fan when they die.

Do we trust the President? Absolutely not. Vote no on this amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. HASTERT] has 12¾ minutes remaining, and the gentleman from West Virginia has 9½ minutes remaining.

Mr. HASTERT. Mr. Chairman, I have only two speakers left.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I am not a great fan of calling amendments by Members' names. My general view is if we have campaign finance reform to call it the bipartisan bill for campaign finance reform and not attach a Member's name to it. But I want to say to my colleagues that I take tremendous pride today in having this be the Mollohan-Shays amendment.

I really believe that the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Ohio [Mr. SAWYER] and others, frankly, on that side of the aisle are right and most of my colleagues on my side of the aisle are wrong.

I believe, with all my heart and soul, that the Census Bureau needs to test intensive door-to-door surveys, it needs to test outreach programs, it needs to test advertising, it needs to test hiring practices and who they hire, it needs to test telephone responses, it needs to test multiple site form distributions, it needs to test polling by mail, and yes, it also needs to test and review the results of statistical sampling.

What most on my side of the aisle want to do is deny the Commerce Department and the Census Bureau the opportunity to prove the validity of statistical sampling. The issue here is not whether we will do it for the year 2000 census, the issue is will we be able to test to prove its validity. Sadly, on my side of the aisle, too many simply do not want that to even be proven.

Now, that is true because my colleague, the gentleman from Illinois [Mr. HASTERT], has decided to come in with an amendment that, basically, says we cannot even test for statistical sampling until the court has made a decision. But it is not the same thing.

Here we ask for parliamentary inquiries and the Speaker entertains it. But we cannot ask the court for a parliamentary inquiry. We cannot ask them to decide the constitutionality of a particular issue before they have a case before them.

So just like the line-item veto, the court might hear something and say, ''We cannot decide, so we will never have a decision.'' In effect, my colleague, the gentleman from Illinois [Mr. HASTERT] will have achieved his objective. Statistical sampling will not even be allowed to be reviewed for determination on whether it works.

Now, the bottom line, as far as I am concerned, is that the science, not the politics, but the science proves that the National Academy of Science, the Inspector General, Commerce Department, the General Accounting Office, the American Numerical Statistical Association, and others, believe, with all their heart and soul, that the best way and the fairest count is to use statistical sampling after we have gone four times into the community and after we have reached 90 percent of the households.

One of my colleagues stood up and talked in great faith about how it was important to go from house to house. What do we do when someone leaves at 6 in the morning and does not get home until 12 at night? What do we do? Are we going to wait for them at 1 o'clock in the morning? No. We are just not going to count them.

What are we going to do, be standing at the door? We go four or five times to that apartment and no one is there.

The bottom line is we will undercount people in rural areas if we do not have statistical sampling, we will undercount people in urban areas if we do not have statistical sampling; and, yes, most of them, sadly, will be minorities.

I believe that we should allow the Census Bureau to do its job, and I believe we should not interfere. I know we have the protection to make sure that statistical sampling is applied fairly. We would have an appointment from the Republican side and an appointment from the Democrat side to review this. We would have the Comptroller General, who, by the way, is appointed by the President, but only from three nominations made by four Republicans and four Democrats. I hope and pray that this amendment passes.

Mr. HASTERT. Mr. Chairman, I yield myself 15 seconds.

When we cannot find those folks in the apartment houses and the homeless shelters, we do like people in Milwaukee did, we hire the homeless folks to go and seek them out. We also go out and work and hire postal employees to deliver the mail on weekends to find out where these people are. It can be done, and has been done, and should be done.

Mr. Chairman, I yield 4¾ minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Chairman, former Treasury Secretary William Simon has said that ''People use statistics like drunks use lampposts, for support rather than illumination.'' He would feel right at home on the other side tonight.

Somebody else would feel right at home on the other side tonight who wrote 132 years ago in a book on Alice. As Lewis Carroll had them saying, ''Then you should say what you mean,'' the March hare went on. ''I do,'' Alice hastily replied; ''at least, at least I mean what I say. That's the same thing, you know.'' ''Not the same thing a bit,'' said the Hatter. ''Why, you might just as well say that 'I see what I eat' is the same thing as 'I eat what I see.' ''

Mr. Chairman, this is a debate on the other side out of the ''Twilight Zone.'' Let us look at reality. This administration, Mr. Chairman, has politicized the INS, the FBI, Department of Justice. We have seen Filegate, Travelgate. Let us not allow them to develop Censusgate.

If any administration has ever abused its power vested in it by the American people, Mr. Chairman, this administration has. Should the American people actually believe that this administration would not jump at the opportunity to use the census for its own political gain?

Fortunately, though, Mr. Chairman, our Founding Fathers envisaged that some day an administration would abuse its power and would attempt to manipulate the census. And Mr. Chairman, like they have done so many times before, thank goodness, our Founding Fathers predicted the error of our ways and saved us from our own demise; they provided us with a guide on how to run a democracy.

That guide, which too many Members ignore, is the U.S. Constitution. And on the issues of the census, it is unambiguous. The constitutional cornerstone of a representative democracy is the right to vote, and that is inextricably linked to the right to be counted.

The affirmed intent of the U.S. Constitution holds that the decennial census must be an actual count. Article I, section 2 of the Constitution states: ''The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they,'' that is the Congress, ''shall by law direct.''

In 1868, as part of the 14th amendment, there was further clarity, stating in part: ''Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.''

Three key principles arise from a study of the Constitution on this issue. First, the decennial census must be an ''actual enumeration.'' Second, the ''actual enumeration'' must be ''a counting of the whole number of persons in each State.'' And third, the decennial census must be conducted ''in such a manner as they (Congress) shall by law direct.''

The first challenge to the actual count came at the Constitutional Convention itself, when my own State of Georgia sought additional representation based on expected population growth. This was not allowed. The Framers' intent was that congressional apportionment must be based on actual count at the time of the census-taking.

Even though census figures are used for many determinations, the only constitutionally mandated purpose for the

census is the determination of the U.S. population in order to apportion congressional seats. And for this purpose, the Constitution's requirements are crystal clear and they are mandatory.

In the 1950's, a small group of statisticians proposed the use of statistical sampling and adjustments as a gap filler for the decennial census. Wary of the potential for data manipulation, Congress enacted a statutory provision (13 U.S.C. Sect. 195) restricting the use of the statistical sampling and adjustments, stating: ''The Secretary of the Commerce shall, if he considers it feasible, authorize the use of sampling except for the determination of population for purposes of apportionment of Representatives.''

Mr. Chairman, the Clinton administration is on the verge of creating a virtual America based on virtual people, but based on a very real violation of law and of our Constitution. Congress has not waived, nor can it waive, the constitutional requirement that the decennial census must be an ''actual enumeration,'' and the ''counting of the whole number of persons of each State'' is a requirement.

Mr. Chairman, no administration should have the ability to alter the census for any reason, especially for political gain. This administration has proved it will do and say anything in the name of politics. Congress must not allow them to politicize the census. It is here that we must draw the line and defeat this amendment.

PARLIAMENTARY INQUIRY

Mr. LEWIS of Georgia. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman from Georgia [Mr. LEWIS] will state his parliamentary inquiry.

Mr. LEWIS of Georgia. Mr. Chairman, I wonder whether my colleague from Georgia [Mr. BARR] still believes that the Constitution suggested that a black person is only three-fifths of a person and that the Constitution also supported slavery. Does it still support slavery?

The CHAIRMAN. The gentleman from Georgia [Mr. LEWIS] has not stated a parliamentary inquiry.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio [Mr. SAWYER] to speak to the Milwaukee representations made by the gentleman from Illinois [Mr. HASTERT].

Mr. SAWYER. Mr. Chairman, my colleague, the gentleman from Illinois [Mr. HASTERT], I think justifiably lauded the effort that the city of Milwaukee and others made in 1990. With that effort, they were able to keep their undercount to about 2.2 percent. The national average, however, was 1.6 percent, a 30 percent higher undercount, despite their numerous effort.

Mr. MOLLOHAN. Mr. Chairman, I yield as much time as he may consume to the gentleman from New York [Mr. ENGEL].

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

Mr. ENGEL. Mr. Chairman, I rise in strong support of the Mollohan-Shays amendment.

I rise to give my strong support to a fair and accurate Census 2000 which can be accomplished through the use of statistical sampling. This issue should not be caught up in cynical partisan sniping.

Three separate panels of experts convened by the National Academy of Sciences have recommended the use of sampling. Sampling in the 2000 Census has also been endorsed by the American Statistical Association, the American Sociological Association, the National Association of Business Economists. These are groups for whom the census is a matter of science and not politics.

The fact is that no matter how hard the Census Bureau reaches out (and during the 2000 Census they will be using more methods than ever before to reach every American) we simply cannot count every person.

The 1990 Census failed to count 1.6 million. The majority of those who were missed were minorities, and residents of poor rural communities.

During the last Census, African-Americans were six times more likely to be uncounted than Non-Hispanic White Americans. Hispanic American were seven times more likely to be undercounted than Non-Hispanic White Americans.

These are groups who are shut out of the workings of our Government in so many ways. By opposing the use of sampling we are further alienating these people who deserve to be counted and need to be counted.

In undercounting these groups we are denying them their apportionment of Federal funding which the Census determines.

Some of my colleagues have characterized sampling as guessing. The Census Bureau will not be making numbers up. Sampling is a well-tested method of following-up on those households which have not responded.

The Department of Justice under the administrations of Presidents Carter, Bush, and Clinton have all concluded that sampling is Constitutional.

We should not tie the hands of the Census Bureau because we are afraid of the political ramifications, or for any other reason.

If we want a fair census, if we want an accurate census, then we ought to let the Census Bureau conduct a professional census by using any method they deem necessary for accuracy, including statistical sampling.

Mr. MOLLOHAN. Mr. Chairman, I yield as much time as he may consume to the gentleman from Michigan [Mr. CONYERS].

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

Mr. CONYERS. Mr. Chairman, I rise in support of the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2¼ minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for yielding me the time.

Mr. Chairman, it is important to remember that an accurate census forms the foundation of our representative government and that every American has a right to be counted. Sampling is the most efficient, the most cost-effective, and the most accurate means of conducting a census. Sampling has the backing of the National Academy of Sciences, the American Statistical Association, the General Accounting Office, and even the census director under the Bush administration.

So the question then is, why are my Republican colleagues opposing sampling? They are afraid of the truth. They are afraid that an accurate count might include the 4 million Americans who were not counted in the last census, mostly children, minorities, and people living in rural areas.

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My distinguished colleague from Ohio reminded me that half of that 4 million that was not counted in the last census were children.

My colleagues, we are obligated under the Constitution to conduct an accurate census of all Americans, all Americans. Sampling allows us to do that. The Republican efforts to undermine the census for political gain is an insult to voters. It is also an insult to the Constitution that we, as Members, are sworn to uphold.

I cannot help but notice on this day that the pattern in this bill and the case of the gentlewoman from California [Ms. SANCHEZ] is the same. First, they do not count the people, and if that is not good enough, they do not count their votes.

Mr. Chairman, I urge my colleagues to vote for the Mollohan-Shays amendment.

Mr. HASTERT. Mr. Chairman, I yield 7¾ minutes to the gentleman from California [Mr. THOMAS].

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

Mr. THOMAS. Mr. Chairman, up until the last speaker, I thought we were doing pretty well focusing on the issues in front of us. A lot of people think the census, and I quote from a letter that I got, the census is the only source of reliable, comparable, small-area data on income, occupation, and labor force participation, educational attainment, household structure, and other key demographic and economic data. And many Members have said, I think quite correctly, there is only one reason why we have the census constitutionally. It was that grand experiment the Founding Fathers decided to try: government by the people.

Mr. Chairman, I know the gentleman, Mr. WATTS, indicated and others propounded on, the fact that the actual enumeration in article I, is the manner by which Congress shall pose. I say, ''It's how you do it, not what you do,'' and I noticed every one of those individuals did not then turn to the 14th Amendment, as has been done on this side. After that great conflict it was determined that all people, I tell my friend and colleague from Georgia, that all people were to be counted, not three-fifths of a person, when all people

were to be counted. The second clause of the 14th amendment says ''whole number of persons,'' ''whole number of persons.''

I noticed also that as the minority side propounded its constitutional arguments; that is, that it is constitutionally permissible to sample, I never heard the Supreme Court mentioned once. I heard the Department of Justice under Democrats, I heard the Department of Justice under Republicans. I never heard the Supreme Court. What we are proposing to do is to say all right.

Now I tell my friend from West Virginia, the problem is not bad science the folks are concerned about, it is science. When we statistically sample, we must necessarily adjust. Adjustment means changing the numbers. Inevitably when we adjust, we take numbers from real people that were counted and substitute them for people who have not been counted. The Constitution does not say that can be done. We will be subtracting real people and counting people who have not been counted. That is the fundamental basis of adjustment.

Frankly, to tell me that professional statisticians are in favor of statistical adjustment is like going to a cattlemen's association annual convention and having two items on the menu, beef and fish. Guess which one they will choose?

Statistically, I guess we could say this is a bipartisan amendment; three Republicans will support it. That is the problem with statistics. But, as my colleagues know, we do concede that America is a mobile society and that information that we were talking about is useful and valuable. What we find, as has been pointed out by colleague after colleague, in the statute in section 195 says, ''You can sample. You can statistically adjust. You can over that 10-year period attempt to make the numbers reflect where the people are.'' But it says, ''When you count for enumeration, you count, you do not estimate.''

Technology can help us and creativity can help us be a lot more effective in our count. The gentleman from West Virginia and the gentleman from Ohio said, correctly, the 1990 census was only 1.6 percent off. Why in the world, if we were only 1.6 percent off, do we back up to count, as the gentlewoman from New York said, only 90 percent? Why do we not focus on that 1.6 percent that we did not count? We have been told who was not counted. Great. Let us go count the ones we are told were not counted. If it takes more money, put more money in.

Every day somebody visits those households, they know where they are. Why have people who do not know the neighborhood do the counting? My colleague from Illinois mentioned mail carriers. Those people are available. We should use them.

How about this: Create a lottery. The ticket for the lottery is one's filled in form. I think we will have a couple of drawings that will increase the numbers significantly. Educate. School kids, ''just say no on drugs,'' was a very useful message started in the schools. Let us get some programs going about how important it is to count. It just seems to me that there are any number of ways that we can assist.

But I want to spend the final minute or 2 on this business of politics. This amendment offers us a board of observers to ensure fairness. Now remember, under the Constitution, the only reason we have the census is to make sure that the People's House is based upon people, that it is the House of Representatives. The proposed board of observers says the President gets one vote, the House and the Senate together get one vote, and the Presidential appointment gets the third.

Hey, we do not have the President, that is OK. In the next census, if we are lucky, we will be able to elect a President, and we might have the 2 to 1 ratio. Read the fine print. This board dissolves itself in 2001. After it is done, they are dissolved.

But fundamentally, my colleagues, the Founding Fathers knew what they were doing. They knew what politics was all about. They knew what power was. Go back and reread Federalist 10. They knew perfectly well the use and abuse of power. That is why they said, with clear intent, an actual enumeration.

A noble experiment, government by the people, this is embodied in the Constitution. Count whole people. The fundamental distribution of power in this society is to be based upon real people, not estimated people, but less than 10 years after that was propounded and agreed to, then Gov. Elbridge Gerry of Massachusetts figured out a way to beat the system. They went ahead and took the census, and then they drew districts that were not fair, and I guess as a place in history, it is now known as the gerrymander.

For more than 150 years, when we did a fair census, it was taken away from the people by politics. For more than 150 years, we did not have real representation by the people. And then the Court acted. The Court said one man, one vote. How ironic. When we finally have buried the gerrymander, the census 2000 proposes to leave us, if the Mollohan amendment is adopted, the Clintonmander.

Honor the Founding Fathers' wisdom. For representational purposes. Count. Do not estimate.

Vote ''no'' on the Mollohan amendment.

The CHAIRMAN. All time of the gentleman from Illinois (Mr. HASTERT) has expired.

The Chair recognizes the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I yield the remainder of my time to the distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT).

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

Mr. GEPHARDT. Mr. Chairman, let me urge Members to vote for this bipartisan amendment, and let me start by saying that the Census Bureau and a number of other important objective authorities have supported the targeted use of statistical sampling for the 2000 census to improve accuracy and to eliminate, as best we humanly can, the problem of undercounting.

This tool of sampling is to be used through the whole period that we are actually trying to count our citizens. As I understand it, the Census Bureau is intending to have the most aggressive, elaborate, door-to-door, human count that can possibly be made. Everybody wants that; everybody expects that; everybody anticipates that.

But what the experts are telling us who are going to do this is that they need statistical sampling as a tool throughout the period so they can target problems and then direct people to go out and make a better count so that we can get the best possible human count we can get at the end of the day.

Mr. Chairman, all the scientific evidence points to sampling as the best way to ensure the best count. Leading experts such as the National Academy of Sciences support the use of statistical sampling as the best way. The Department of Justice under Presidents Carter, Bush, and Clinton all issued opinions supporting the constitutionality and legality of using sampling in the census. Every Federal court that has addressed the issue has held that the Constitution and Federal statutes allow sampling. Barbara Bryant, the Republican appointed director of the 1990 census, supports sampling in the year 2000 census as consistent with the work she began back in 1990. Every authority that has talked about this, the agency that is supposed to do it, is saying that they can do a better job than they did 10 years ago if they are allowed to use statistical sampling.

Now at the end of the day, we have to ask why in the world would we not want to support this amendment to see that this important census, which is to ensure one person, one vote, the thing that James Madison fought hardest for in the constitutional convention, is not realized.

I urge Members to vote for this amendment. It is a bipartisan amendment; it is a sensible amendment; it is based on science; it is based on all the authorities. We know that the last time we had an undercount of anywhere between 4 million and 10 million people, and we are having all the experts tell us they can do much better than that if they are allowed to properly use statistical sampling.

Vote for the Mollohan-Shays amendment. It is the best way to get this done right.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of the Mollohan-Shays amendment.

Seldom is an issue debated on this floor that is as clear in its importance and value to

the American public as the upcoming Census 2000. An accurate, reliable, and inclusive census count is undeniably in the best interests of the American people, and allowing the Census Bureau to use statistical sampling is the best way to achieve that goal.

Census data on family status, housing, employment, and income levels gives the country a sense of who we are and where we are headed in the future.

For American businesses, census data is a valuable tool that helps them better understand their changing client bases and effectively plan for continued growth and economic well-being.

For Federal, State, and local governments, census data is critical for developing effective public policies that meet the future needs of Americans throughout the country. Census data is also the basis upon which $150 billion in Federal dollars is distributed to State and local governments each year.

As a result, a census undercount could have a devastating impact on States whose needs go unrecognized. Those with large urban and rural populations are especially vulnerable. For example, the 1990 census had a national undercount of 10 million people. In my home State of California, with an estimated undercount of 1.2 million, Californians were denied a stronger voice in determining public policy and lost millions of critically needed dollars for public facilities and services.

Mr. Chairman, history does not have to repeat itself.

The Census Bureau's proposal to use statistical sampling in Census 2000 is fiscally and scientifically sound. The National Academy of Sciences and a host of other reputable organizations and local government associations have recommended the use of statistical sampling to achieve an accurate count.

In addition, the Department of Justice under the Carter, Bush, and Clinton administrations, as well as every Federal court addressing the legality of statistical sampling, have held that the Constitution and Federal statutes permit its use.

Given the benefits of sampling and the fact that experts recommend its use, why are we having this debate?

Mr. Chairman, it is purely political. Although there is no evidence to support their assumption, many in the majority party fear that a statistically adjusted census will result in their party being disadvantaged.

We must put the American people first.

I, therefore, ask my Republican colleagues to abandon this ill-advised political gamesmanship and allow the Census Bureau to use statistical sampling for a more accurate and inclusive census that is indisputably in the best interests of all Americans.

Mr. ABERCROMBIE. Mr. Chairman, today I rise in support of the Mollohan-Shays amendment. The amendment removes the bill's current provision that is an impediment to provide for a fair and accurate census in the year 2000. This issue is very important to the people in my district. In fact, this is an issue that is important to all my House colleagues. We must work to ensure that all individuals are counted so that their voices may be heard.

The 1990 census missed at least 4 million people because, as the Bush administration's Census Director at the time said, ''enumeration cannot count everybody.'' We in Congress must take steps to resolve and correct this situation. The Mollohan-Shays amendment seeks to address the issue and make the 2000 census more accurate.

The National Academy of Sciences and virtually the entire statistical profession, including the American Statistical Association, has endorsed sampling as the best and most efficient way to achieve an accurate census count.

The Justice Department under the Reagan, Bush and Clinton administrations has consistently held that sampling is constitutional.

Opponents of the amendment claim that sampling opens up the census count to political manipulation. In response, the sponsors of the amendment went out of their way to address that issue. An independent board of experts will monitor every aspect of the census to guard against any bias or manipulation. This safeguard creates a more effective barrier against fraud and error than under the present system.

The Congressional Research Service analyzed the Hastert census language that is currently in the bill, and it is quite clear that this language will not work. According to the memorandum, ''The case law makes it clear that this authorization, if enacted, would run afoul of constitutional barriers to congressional conferral either of standing or of ripeness or both.'' The memorandum goes on to say ''* * * it appears extremely likely that the Supreme Court would either strike down the provision, or disregard it.'' If my House colleagues are concerned about constitutionality they cannot support the Hastert language.

The Mollohan-Shays amendment works toward a fair and accurate census. I urge my colleagues to support the Mollohan-Shays amendment.

Mr. RODRIGUEZ. Mr. Chairman, in the 1990 census, the census missed an estimated 4.7 million people, 1.58 percent of the population. We are bound to have some undercount; but the undercount of minorities and inner city populations is unacceptably out of proportion to the national average. For minorities, the undercount was nearly tripled: The census missed 4.4 percent of the African-American population and 4.9 percent of the Hispanic population.

We need an accurate census. A count that does not leave minorities and inner city and rural populations behind. Without accurate census information, minorities, inner cities, and rural areas do not receive equal political representation or distribution of government resources. State and local governments with missed populations lose millions of dollars in Federal aid.

Sampling is not a new issue. In 1991, Congress passed a law requiring the Census Bureau to determine improved census methods and to consider the use of sampling to get a more accurate count of the population. Sampling is simply a way to get the most accurate census from available information. Based upon detailed analysis of areas that the Census Bureau counts by hand, it can quite accurately determine the population of similar places for which inaccurate or incomplete data was collected.

We all agree that we need an accurate count. Why do Members on the other side of the aisle oppose sampling? Because they fear it would mean counting more Democrats? Since its beginning, the Census Bureau has abstained from political posturing and continues to remain independent. We must let the Census Bureau do its job and use the method that is most accurate, and that avoids unfair undercounts. That is the American way.

Ms. MINK of Hawaii. Mr. Chairman, I rise in support of this amendment to restore credibility to the 2000 census. Unless we approve this amendment, the year 2000 census will again undercount millions of Americans.

The traditional methods of physical enumeration does not yield an accurate and honest count of Americans as required by the U.S. Constitution. Statistical sampling is a tested technique, refined to a level of great accuracy. It has been reviewed and studied by three separate panels of experts convened by the National Academy of Sciences, the independent inspector general of the Commerce Department, and the GAO. These prestigious groups of scientists have all recommended the use of sampling and endorsed the Census Bureau's plan.

The Mollohan-Shays amendment does not mandate sampling. It simply allows the use of the most advanced methodologies to obtain a more accurate count of the American population. If we limit the Census Bureau's ability to use all of the scientific tools at its disposal the accuracy of the census count could be compromised.

An accurate count of our population has enormous political and social consequences. The apportionment of our elected offices is affected. The allocation of Federal and State funds is affected. And if people of color and the poor are not accurately counted, their voice in our Government will be even more muted. The Mollohan-Shays amendment will achieve a more national profile of America as she lives and where she lives.

We are here today to say that everyone counts—whether you are a person of color, poor, or elderly, whether you are a recent immigrant or a citizen, whether you live in an urban or rural area. Support the Mollohan-Shays amendment. Tell the American people we want all to be counted in the next census.

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong support of the Mollohan amendment, which would provide full funding to the Census Bureau to conduct a fair and accurate census. It seems amazing, but the Republican leadership will stand in this chamber and do anything they can to stop fair representation for all people in this country. Not long ago, minority communities were prevented from being represented through violence and repression. Today, the methods being used are far more subtle.

During the last census, 26 million people were either missed, counted twice or counted in the wrong place. The biggest losers as a result of this undercount are minority and poor rural communities. In 1990, over 1 million Latinois were not counted. In poor rural communities, 1 out of every 16 people was missed. But the Republican leadership says that's okay.

But this is really not a debate about the way we should conduct the census. This is a debate about whose voice will be heard and whose voice will be silenced. By not counting minorities and the poor, opponents of a fair census can justify slashing resources to these communities. By pretending that millions of people don't exist, political representation is denied at every level—from school boards all the way up to Presidential elections.

We cannot allow fair representation to suffer at the hands of partisan politics. Expert after

expert has made it clear that using sampling will produce the most accurate count. Yet our opponents are desperate to continue to force the Census Bureau to use inaccurate, unfair methods of conducting the census. Earlier this year, they were willing to allow flood victims in the midwest to suffer in their attempts to prevent an accurate count. Now, they are trying to slash the Census budget by two-thirds in order to carry on this attack against poor and minority communities. The Molohan amendment would restore that funding so the Census Bureau can do their job properly.

We must make sure that every person living in this country is counted in the census. We must not allow anyone to pretend that minorities and the rural poor do not exist. We will continue to expose these efforts for what they are—partisan attempts to silence the voice of minorities and the poor. Who is willing to stand here and tell the American people that the poor don't deserve proper representation? Who is willing to stand here and tell the American people that Latinos and African-Americans don't deserve proper representation? This a matter of basic fairness and democracy, and it is something that we will continue to fight for.

I strongly urge a yes vote on the Mollohan amendment.

Ms. PELOSI. Mr. Chairman, I rise in support of the Mollohan-Shays amendment prohibiting the use of fiscal year 1998 funds to make irreversible plans for the use of statistical sampling in the 2000 census.

The Census Bureau has acknowledged that at least 4 million Americans were not counted in the 1990 census. Twenty percent of these undercounted individuals reside in California. California is home to 12 percent of all U.S. residents. An undercount in the census places a disproportionate burden on our State. Scientific sampling is a necessary tool to achieve the most accurate census in the most difficult to reach areas and populations.

We all know that some population groups are missed in the census far more than others. African-Americans are 7 times as likely to be missed as whites. In 1990, children accounted for 52 percent of the undercount.

Statistical sampling will improve accuracy in counting minorities, children and the poor, all traditionally undercounted during the census. California is home to the largest Hispanic and Asian Pacific Islander populations among all 50 States. Between 1989 and 1993, the number of poor children, age 15 to 17, increased from 894,000 to nearly 1.4 million. An undercount denied significant Federal funding for education, child care and housing programs, among others.

An undercount as significant as 1990's denies equal representation for people of color at all levels of Government, including this body.

The National Academy of Sciences, American Statistical Association, Population Association of America, National Association of Counties, National Conference of Mayors, Council of Chief State Schools Officers have all endorsed the use of sampling to account for households that do not respond to census questionnaires or visits.

Accountability in sampling is increased through the Mollohan-Shays amendment, which creates a special board of observers to monitor the census process and protect it from any manipulation.

I urge my colleagues to support the most accurate census possible. Vote ''yes'' on the Mollohan-Shays amendment.

Ms. DELAURO. Mr. Chairman, I rise to support this amendment and urge the support of my colleagues as well. The key issue before us here is whether or not we will make a commitment to a fair, accurate census which counts everyone.

The Census Bureau's plan to sample is the only way to count those men, women and children who will otherwise be missed. Without sampling, the Census will cost more and be less accurate. Barbara E. Bryant, the Republican-appointed director of the 1990 Census, says that ''I am very much in favor of the plan the Census Bureau has. It builds on work I started back in 1990.''

Bryant began that work to try to improve the count during the 2000 Census. By most estimates, the 1990 Census, which used little sampling, missed at least 4 million people.

Scientists know that sampling can reduce the undercount—the people missed and uncounted—from 2% to one-tenth of one percent. A recent study by the National Science Foundation, the objective group of scientists to which Congress turns for scientific advice, concurs that sampling is a fair way to count people who would otherwise be left out. And business groups agree. That's why the most recent Business Week magazine ran an article that said that science, not politics, should settle this issue.

Objective Republicans and Democrats who have looked at the facts agree: sampling is more accurate, and more fair.

Let's put this question to the American people: we have two options. One will give us inaccurate information and cost more. The other will give us more accurate information, and cost less. More accuracy for less money—how can there even be a debate?

I urge my colleagues to support the Mollohan-Shays amendment, and thank my colleagues for offering us this opportunity to correct a serious wrong.

Mr. LEWIS of Georgia. Mr. Chairman, I rise in support of this amendment, and in support of a fair and honest Census count in the year 2000. In 1990, the census missed an estimated 4 million Americans. Four million left out of our democracy, hundreds of thousands of Georgians not counted, silenced, voiceless, left out and left behind.

This amendment supports a fair and honest census through ''sampling''—the best way we know to conduct a fair and accurate census. The experts support it, the Justice Department under the last three Administrations—under Presidents Reagan, Bush, and Clinton support it. In 1990, even the Speaker of the House supported it.

But what we are debating today is not what is the best policy, but instead the best politics, the best Republican politics.

The census is more than just a political football, it is about fairness for every American—whether they live in North Georgia or Northern California. Every American—rich or poor, young or old, black, white, yellow, red or brown—deserves to be counted. No one should be left out or left behind. It is time to stop playing politics with the census.

Support the best census in the history of the Nation. Support the Mollohan amendment.

Mrs. MORELLA. Mr. Chairman, I rise today in strong support of the Mollohan-Shays amendment

The Census Bureau needs the full $381.8 million appropriation in fiscal year 1998 to prepare for Census 2000 now—not pending expedited judicial review. Preventing the Census Bureau from spending any money on planning, preparing, or testing for the use of sampling would jeopardize all components of census preparation, including the dress rehearsal and the preparation of the long form.

As Members of Congress, we depend on the accurate information provided by the census to give us insight into our changing communities and constituencies. If this amendment is not passed, and data is not collected in Census 2000, we will lose the only reliable and nationally comparable source of information on our population. Both the private and public sectors, including state, county, and municipal agencies; educators and human service providers; corporations; researchers; political leaders; and federal agencies, rely on the census long form.

The Mollohan-Shays amendment is critical if we are to prevent the mistakes made in 1990. I served on the Committee on Post Office and Civil Service during the 1990 census, and I saw first-hand the mistakes that were made. According to the GAO, the 1990 Census got 10 percent of the count wrong. Over 26 million people were missed, double counted, or counted in the wrong place. Let me quote from the GAO Capping report on the 1990 census, which makes it clear that a straight count will not work:

GAO reported that ''* * * the current approach to taking the census needs to be fundamentally reassessed.'' ''The current approach to taking the census appears to have exhausted its potential for counting the population cost-effectively.'' Historic methods of trying to gather data on each nonresponding household is costly both in dollars and accuracy. ''Specifically, the amount of error in the census increases precipitously as time and effort are extended to count the last few percentages of the population. * * *''

There is strong scientific evidence that sampling will result in the most accurate Census possible. The experts agree that spending more money to go door-to-door will result in errors as large or larger than 1990 and that the 2000 census will be more accurate for all congressional districts than 1990, and 19 times more accurate for the nation.

As a result of the GAO evaluation and bipartisan direction from Congress, the Census Bureau turned to the National Academy of Science for advice. the first panel said ''* * * physical enumeration or pure 'counting' has been pushed well beyond the point at which it adds to the overall accuracy of the census.''

The panel went on to recommend a census that started with a good faith effort to count everyone, but then truncate physical enumeration and use sampling to estimate the characteristics of the remaining nonrespondents.

Following those recommendations, the Census Bureau announced in February 1995 a plan for the 2000 Census which makes an unprecedented attempt to count everyone by mail, followed by door to door enumeration until reaching 90 percent of the households in each census track. A sample of households is then used to estimate the last 10 percent. The GAO Capping Report pointed out that in 1990 nearly half of the 14 weeks of field work were spent trying to count the last 10 percent, and resulted in increased error rates.

The census plan has received overwhelming support from the scientific community including: National Academy of Sciences Panel on Census Requirements in the Year 2000 and Beyond; National Academy of Sciences Panel to Evaluate Alternative Census Methods: American Statistical Association; American Sociological Association; Council of Professional Associations on Federal Statistics; National Association of Business Economists; Association of University Business and Economic Research; Association of Public Data Users; and Decision Demographics.

And to close, I want to read a quote from the Blue Ribbon Panel on the Census, American Statistical Association, September 1996. ''Because sampling potentially can increase the accuracy of the count while reducing costs, the Census Bureau has responded to the Congressional mandate by investigating the increased use of sampling. We endorse the use of sampling for these purposes; it is consistent with best statistical practice.''

I hope that my colleagues will heed the advice of our nations' experts and join me in supporting the Mollohan-Shays amendment. To do otherwise would jeopardize the content and accuracy of Census 2000.

Mr. PETRI. Mr. Chairman, I rise in support of this bill and the inclusion of provisions to require the Census Bureau to conduct, as the Constitution says, an actual enumeration rather than using the statistical technique known as sampling. Following the 1990 census we had a debate over whether to use the number resulting from the actual enumeration or a number adjusted by sampling. This time the Bureau does not even intend to try to count everyone. As I understand it, the plan is to try to count 90 percent of the people and estimate the rest.

I oppose the use of sampling for several reasons. It would leave the census numbers open to political manipulation and would tend to undermine the public's confidence in the census. We have seen various administrations manipulate the FBI, IRS, and reportedly even the Immigration and Naturalization Service for political gain. Once we move away from a hard count what guarantee do we have that this or a future administration will not manipulate the census numbers for partisan gains?

A Member of the other body has stated that we should all support sampling since we all rely on something similar, public opinion polls, to get elected. The problem with this thinking is that we may use polls to guide us but we don't let them determine the winner.

I would have no objection if the Bureau uses sampling to determine where there may have been an undercount, and then goes back in and redoubles its efforts to count those people. That would be analogous to the way we use opinion polls. To rely on sampling rather than a physical count is comparable to changing election returns if they are at variance with the polls.

Sampling is said to adjust for undercounts in major cities. But once you estimate how many people are in a given city, to what wards, neighborhoods, and precincts do they belong? How can State legislatures and school boards and city councils be apportioned if we don't know where these estimated people live? Is sampling really accurate enough to tell us if some small town has 3,300 people instead of the 3,000 from a hard count?

When a State, such as Wisconsin, has hundreds of towns of such size, will sampling adjust for an undercount there the way it might in Los Angeles or some other major city? In 1990 an entire ward in one town in my district was missed. The community leaders pointed this out during the post-census review and the mistake was corrected. For 2000 the Bureau will not do a post-census review presumably since no one can know what mistakes were made since everyone wasn't supposed to be counted anyway.

Will the undercount of Indian reservations, of which there are several in Wisconsin be corrected? My understanding is that the bureau plans to do a hard count on Indian reservations. Yet native Americans were among the most undercounted in the last census. So how can it be claimed that the reason the bureau wants to use sampling is to correct for past undercounts?

The main argument of those supporting sampling is that it will save money. Well that may or may not be true but that can't be the only basis for designing the census. The cheapest possible census would be if the numbers were just made up altogether. We obviously aren't going to do that but the point is that saving money is not the only goal. Fairness is a goal and sampling is unfair to smaller communities and rural States. Following the Constitution, which calls for an actual enumeration, is a goal and the Supreme Court has never ruled on the issue.

What happens if we complete the 2000 census using sampling to estimate 10 percent of the population and then the Supreme Court throws it out? Then we will have wasted the $4 billion spent on the original census not to mention who knows how much in litigation. Rather than saving money, sampling could end up costing the taxpayers two or three times as much money as a hard count if we have to redo the whole thing. I believe a greater effort should be made to reach all Americans to provide an accurate hard count. Fifty percent of the undercount from the last census was caused by people never receiving the forms. Better mailing lists and better coordination with the Post Office and local governments can correct this problem. Approximately 32 percent of the undercount can be corrected through the use of easier to read forms and perhaps an 800 information number. The rest will have to be reached through better outreach. Instead the Bureau plans to spend less money on outreach, figuring that sampling can make up the difference.

I don't believe the bureau's plan will provide for the fairest and most accurate census. I encourage my colleagues to oppose this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 228, not voting 8, as follows:

[Roll No. 475]

AYES—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—228

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte

Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NOT VOTING—8

Cooksey
Gonzalez
McDermott
Roukema
Schiff
Schumer
Yates
Young (FL)

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So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

Mr. ROGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, before we go to final passage on this bill, about seven Members have requested colloquies that should consume maybe 15 minutes or so before we get to final passage. So for Members' interest in that question, that is about the length of time we expect.

Mr. Chairman, with that mind, I yield to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, I thank the gentleman for yielding to me.

First of all, let me say, Mr. Chairman, I appear tonight on behalf of my colleague, the gentlewoman from the District of Columbia [Ms. NORTON] who was unavoidably detained at a speech in her district with some constituents. The gentlewoman and I are both concerned, as she is the former chair of the Equal Employment Opportunity Commission and I am a former employment lawyer. We would like to commend the chairman on the fine job he has done in putting together this bill. We believe that this is fairly bipartisan and equitable.

However, we do have an area of concern, and we ask to bring this issue to the chairman's attention. The chair has a formidable backlog, caused in part by very new and very complicated jurisdictions. The commission is our Nation's principle enforcer of such landmark legislation as the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

We are concerned that without an increase in funding for the EEOC, we will not be able to decrease this backlog in cases. The EEOC received roughly $240 million in its fiscal year 1997 budget, and it has been appropriated the same amount for the fiscal year 1998 budget, but yet, we have an increase in backlog of cases. The President has requested $246 million, which we feel is a modest increase, but which will help us attack the backlog of approximately 80,000 cases.

My colleague, the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, and I, as well as others, were prepared to bring an amendment to the floor tonight that would have brought the EEOC funding level to the President's request. However, in deference to the negotiations on this bill and the tight fiscal constraints, we would like to work with the chairman in conference to work out this discrepancy in funding.

Mr. ROGERS. Mr. Chairman, I thank the gentlewoman from Colorado, Ms. DEGETTE, and the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, as well for bringing this important issue to our attention.

As the Members know, I share the concern about the existing case backlog at the commission, and I will be happy to work with them and anyone else towards reaching the President's request to address this problem as the bill is considered in conference.

Mr. Chairman, I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I appreciate the chairman's yielding to me.

Mr. Chairman, I would like to take this opportunity to engage in a brief colloquy with the chairman of the subcommittee.

First, I want to thank the chairman for the increase he has given to the National Weather Service in its base operating account. As we know, the NOAA proposal to eliminate important staff positions at the hurricane center in South Florida during the past year caused enormous anxiety throughout Florida. Forecasters as well as their support personnel are vital to the safety of coastal areas like my district in the event of a hurricane, and my district goes from mid Miami beach all the way up to north of Palm Beach to Juno Beach at the south end of Jupiter.

Mr. ROGERS. Mr. Chairman, as the gentleman knows, the bill provides $642 million for the National Weather Service, and including a $15 million increase over fiscal year 1997 appropriated levels for base operations, and a $17 million increase over fiscal year 1997 appropriated levels for modernization activities.

Mr. SHAW. Mr. Chairman, I am grateful for the increase. I am, however, concerned that these funds can be raided by other divisions at NOAA.

Mr. ROGERS. I understand the gentleman's concern. The funds that are appropriated to the National Weather Service cannot be removed and used for other non-Weather Service activities in NOAA without prior consultation with our subcommittee. Under section 605 of this Act, all agencies must notify the committee through our reprogramming procedures prior to any shift in funds.

Mr. SHAW. I thank the chairman for clarifying the position of the National Weather Service. This information should be of great comfort to all residents in hurricane-prone areas, whether they be in Florida or elsewhere. I know in my district this issue is an especially important one, as hurricanes threaten our coastlines on an annual basis.

Mr. ROGERS. Mr. Chairman, I yield to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, I thank the gentleman for yielding to me. I and many of my colleagues on both sides of the aisle are very concerned about the funding provided in this bill.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

Mr. ROGERS. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, I and many of my colleagues on both sides of the aisle are concerned about the funding provided in this bill for the Maritime Administration, and specifically, the six State maritime academies. This year the report to accompany the House Commerce-Justice-State appropriations bill has not provided the specific funding level for the State academies. At the level provided for the overall operations and training account, it is likely this would threaten the ability of the academies to carry out their Federally-mandated mission of educating and training our Nation's licensed merchant mariners.

Mr. Chairman, the Texas State Maritime Academy has a ship for its use called the *Texas Clipper*. The ship's sole purpose is to meet the Federal mandate for training U.S.-licensed merchant mariners. Adequate funding is needed not only for this training but for the annual drydocking, fuel costs, retrofitting requirements, and general upkeep.

To conclude, Mr. Chairman, the Senate report makes available approximately $9.5 million for the State academies. The Senate language is also clear that the training ships where this money is used are Federal ships training U.S. maritime officers, and that is a Federal responsibility.

As we move to conference with this bill, I urge the chairman on behalf of our State Maritime Academies and on behalf of the maritime industry to work with the Senate to fully fund these academies.

Mr. ROGERS. Mr. Chairman, I yield to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. I thank the chairman for yielding to me.

Mr. Chairman, I, too, am concerned about the viability and sustainability of our six State maritime academies under this bill's funding level for MARAD operation and training accounts. These six academies currently provide 75 percent of our Nation's licensed mariners at approximately one-third the cost of the U.S. Merchant Marine Academy. In addition, the graduates enjoy an impressive press 100 percent job placement upon graduation.

Mr. Chairman, it is because of this great return on our investment that I am concerned about adequate funding. The report language notes that additional funding may be available for State Academies via the sale for scrap of vessels in the National Defense Reserve Fleet. However, EPA regulations currently prohibit such scrapping.

I would like to work with the chairman to resolve this problem, but in the meantime, I urge the chairman and Members of the subcommittee to work with the Senate in conference to ensure adequate funding for the State Maritime Academies.

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Mr. ROGERS. Mr. Speaker, I would like to thank the gentleman from Texas and the gentlewoman from New York for bringing up this important issue.

Funding requirements for the State Academies have been somewhat reduced because two of the five State Schoolships are now funded out of the Ready Reserve Force Program. In addition, MARAD has used the Vessel Operations Revolving Fund and unobligated balances to provide additional support for State Academies during the past year. A provision is currently pending in the defense authorization conference that would provide another source of revenue through the scrapping of vessels in the National Defense Reserve Fleet.

As we move into conference with the Senate on this bill and we receive additional clarification about the availability of these and other resources for the State Academies, I will be happy to work with you and other Members to address your concerns.

Mr. ROGERS. Mr. Chairman, I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, first of all, I want to congratulate the gentleman on his thoughtful and effective leadership of this important appropriations subcommittee. It is a pleasure to work with him.

At this time I wish to engage him in a colloquy with regard to the Women's Business Center program and the National Women's Business Council, both administered by the Small Business Administration. I strongly support these programs.

Over the last decade, the growth in women's business ownership has created an enormous demand for the type of business training and technical assistance that is provided by the women's business centers. Within the last year alone, women's business centers have assisted approximately 17,500 women start and grow their businesses. I am joined by many of my House and Senate colleagues in supporting this program.

The Women's Business Centers program is unique because it builds upon a private-public partnership that is, in itself, unique. Once the Federal funding cycle is complete, which is only 3 years, the centers become self-sustaining in their local communities. They are able to do so because the programs are designed locally by women, for women, to meet each community's needs.

Women business owners have played a large role in the economic expansion that the United States is currently enjoying, and the country has a stake in seeing these businesses succeed and grow. The centers' training and technical assistance programs are an important part of the infrastructure that supports women-owned businesses.

The second and vital aspect of this infrastructure for women entrepreneurs is the National Women's Business Council. The council serves as an independent advisory body to Congress and the President with approximately 8 million women business owners in the United States today. The council provides this growing constituency a voice with the Government and a direct conduit to the Congress to learn its views.

This week, the House passed a bill which would increase the authorized funding levels for these programs. On that note, I want to express my hope that funding can be increased for the Women's Business Center program and the National Women's Business Council.

Mr. ROGERS. Mr. Chairman, the bill now includes $3 million for the women's business centers and $194,000 for the National Women's Business Council. Given the strong support within the Senate and the worthy goals of both programs, I am committed to working with the gentlewoman to ensure that these programs receive the necessary funding as the bill moves through conference.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for his time and for his consideration of this worthy program.

Mr. ROGERS. Mr. Chairman, I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I want to commend the gentleman and the gentleman from West Virginia [Mr. MOLLOHAN] for the excellent job they did with this very complicated and difficult bill. I rise to engage in a colloquy with the distinguished chairman of the subcommittee.

Mr. Chairman, the Senate included in its bill language which I introduced in this body, language to require that the Legal Services Corporation include only the income of the client when determining the eligibility for services in cases of domestic violence only.

Out of deference to the gentleman, Mr. Chairman, and his desire to keep this kind of authorizing language off his appropriations bill, I chose not to offer the amendment at the time of the bill. But it is important. More than 4 million women each year are abused by their husbands or partners. Eligibility for legal services is now determined by household income, leaving open the frightening possibility that victims of domestic violence would be denied legal assistance because the abuser's income exceeded the threshold for household income requirements.

The Senate provision ensures that legal aid clinics will not be forced to turn domestic violence clients away based on the income of their abusers. Today I seek the gentleman's assurance, Mr. Chairman, that we can work together to address this issue during conference. We must ensure that no victim of abuse will be refused legal assistance based upon the economic status of the abuser.

Mr. ROGERS. Mr. Chairman, I thank the gentlewoman for her leadership on this issue. I understand the importance of providing access to legal services for victims of domestic violence and look forward to working with her and her colleagues on this important issue in the conference.

Ms. PELOSI. Mr. Chairman, I thank the gentleman.

I would like to also express interest in this issue on behalf of the gentleman from New York [Mr. SCHUMER] and will include his statement in the colloquy for the RECORD, except to just add that Legal Services Corporation's programs handle more than 50,000 cases involving clients seeking protection from abusive partners. This is a very important provision that we are asking for. I thank the chairman for his cooperation.

Mr. Chairman, I include for the RECORD the following statement:

Mr. SCHUMER. Mr. Chairman, I rise to express support for this important provision. Last year, Legal Services Corporation programs handled more than 50,000 cases involving clients seeking protection from abusive partners. This language is essential to ensure that women in poverty have equal access to these legal services, and to continue our fight against domestic violence.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

Mr. ROGERS. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Texas [Mr. BENTSEN] for a colloquy with the gentleman from Texas [Mr. SMITH].

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

Mr. BENTSEN. Mr. Chairman, I had intended to offer an amendment to this bill to assist the Shriners Hospital for Children in my district that provides free orthopedic medical care for indigent children from the southwest United States and northern Mexico. The Shriners offers free patient care to children who suffer from diseases of bones, joints, muscles, and burns.

The Shriners Hospital in Houston has a service area which includes northern Mexico. The patients which they accept for treatment would not be able to receive comparable care in Mexico, and the Shriners completely cover the costs of their travel and treatment to Houston, Texas.

Regrettably, the visa processing fee, as provided in the Foreign Relations Authorization Act for fiscal years 1994 and 1995, that is required to be charged on all immigrants entering the U.S. causes an undue hardship for these children, their families, and in particular the Shriners who volunteer their time and funds to assist them.

My amendment would have prohibited the use of funds contained in this bill to enforce the visa processing fee for children entering the U.S. for prearranged medical care at a charitable hospital such as Shriners as well as for their accompanying parents and guardians. My office has been successful in obtaining an INS waiver of the border crossing free they charge for these children and their parents or accompanying guardian.

As the State Department apparently does not have the authority to waive the visa processing fees under the Foreign Relations Authorization Act, it is my hope that the Subcommittee on Immigration and Claims will take this matter under consideration, in particular, providing for the authority to waive such fees when special situations such as the case of Shriners Hospital for Children in Houston warrants it.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of Texas. Mr. Chairman, I appreciate the point my friend from Texas is making. I am sure the subcommittee will be happy to consider the proposal and to evaluate the gentleman's situation. I thank him for calling it to my attention.

Mr. BENTSEN. Mr. Chairman, I thank the gentleman for his consideration of this.

Mr. ROGERS. Mr. Chairman, I yield to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I want to commend both the gentleman from Kentucky and the gentleman from West Virginia [Mr. MOLLOHAN] for their leadership on this bill. There is growing concern, Mr. Chairman, over developments in Albania, and there are those that believe that Albania could become the next Bosnia.

Mr. Chairman, earlier this month there was an assassination attempt made on a Democratic Party member, a member of the minority in Albania. The attempt was made by a member of the Socialist Party of the Parliament. Since taking power, the Socialist Party, the old Communist Party, has denied members of the opposition freedom of speech, freedom of assembly, and freedom of the press.

I am asking that the committee insert report language in the conference report directing the State Department to investigate the allegations that the Albanian Socialist Government has denied freedom of speech, freedom of the press, and freedom of assembly to both Albanian citizens and to the opposition Democratic Party, and to report back to this appropriations subcommittee on these matters in a timely manner.

Mr. ROGERS. Mr. Chairman, we will work with the gentleman to obtain the language that he seeks in the statement of the managers.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word, and I yield to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member very much.

I would like to thank the gentleman from West Virginia [Mr. MOLLOHAN], and as well I would like to thank the chairman of this committee for listening and providing assistance on the issue of the Prairie View A&M University Juvenile Prevention Center.

Many of my constituents are involved in this university and particularly are interested in ways of preventing juvenile crime. This center has been designated by the State legislature in Texas to assist training individuals who would be involved in preventing juvenile crime, teachers, professionals, and probation and other professionals dealing with this issue. I was delighted to be able to support the Riggs-Scott amendment that heavily relied upon prevention as opposed to incarceration of our juveniles.

The Senate mark on this bill does have provisions in funding for the Prairie View A&M University Juvenile Crime Prevention Center. I would hope that both the ranking member and the chairman, who worked so very hard on this very strong bill on the issue of prevention, would look to provide support to this particular center as it will serve not only the citizens of Texas and those citizens who reside in the 18th Congressional District, but as well citizens throughout the Nation who are interested in being trained or preventing juvenile crime.

Mr. Chairman, I rise today to draw my colleagues' attention to the question of funding for the establishment of a National Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University, located outside of Houston, TX.

I have worked during the appropriations process with many of my colleagues in an effort to find such funding in the Commerce-Justice-State appropriations bill. While we were not successful in getting that funding into the House version of the bill, the Senate has included in its version, $500,000 for the establishment of the Prairie View center. And it is my understanding, through conversations my staff has held with committee staff, that Chairman ROGERS and Ranking Member MOLLOHAN agree that funding for the juvenile justice center at Prairie View could be incorporated into the conference report. I would like to thank both Chairman ROGERS and Ranking Member MOLLOHAN for their support of this important project.

The National Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University will fill some very important functions: First, conducting academic programs, including continuing education and training for professionals in the juvenile justice field; second, conducting policy research; and third, developing and assisting with community outreach programs focused on the prevention of juvenile violence, crime, drug use, and gang-related activities.

The importance of such a center is evidenced by the fact that across America, violent crime committed by and against juveniles is a national crisis that threatens the safety and security of communities, as well as the future of our children. According to a recently released FBI report on crime in the United States, law enforcement agencies made an estimated 2.7 million arrests of persons under 18 in 1995.

Studies, however, show that prevention is far more cost-effective than incarceration in reducing the rates of juvenile crime. A study by the Rand Corp., titled ''Diverting Children from a Life of Crime, Measuring Costs and Benefits'', is the most recent comprehensive study done in this area. It is clear that juvenile crime and violence can be reduced and prevented, but doing so will require a long-term vigorous investment. The Rand study determined that early intervention programs can prevent as many as 250 crimes per $1 million spent. In contrast, the report said in investing the same amount in prisons would prevent only 60 crimes a year.

Children hurting children on the streets of our Nation is costly for the moral fabric of our society and the burden on our Government. Public safety is now becoming one of the most significant factors influencing the cost of State and local governments. We can begin to bring those costs down and make both short-term and long-term positive differences in the lives of our young people by targeting the prevention of juvenile crime.

In Texas, the historically black colleges and universities are forging ahead. The Juvenile Justice Center at Prairie View A&M University will become a State and national resource. It will perform a vital collaborative role by focusing on measures that target the prevention of juvenile violence, crime, delinquency, and disorder. The university will provide comprehensive teaching, research, and public service programs. There is no single answer to this problem, but this center will be a start to bridging the programs that work for the State of Texas and other States.

I would again like to thank both the chairman and the ranking member for their support of the National Center for the Study and Prevention of Juvenile Crime and Delinquency and to encourage that funding for this center be included in the conference report.

The CHAIRMAN. Are there further amendments?

Hearing none, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998''.

Mr. FAZIO. Mr. Chairman, I implore the House Conferees on the Commerce, Justice, State and Judiciary Appropriations Bill for Fiscal Year 1998 to maintain the House silence on the issue of splitting the Ninth Circuit Court of Appeals. The Senate made a hasty decision to include a provision in their version of the bill which would split the Ninth Circuit without the appropriate and necessary study, and the Senate language would mandate that the split occur immediately, with only two years to wind up the circuit's administrative matters. The proposed split would not solve the backlog of cases, as some proponents argue; in fact, it would serve only to delay the cases currently on the docket even more.

There is overwhelming opposition to splitting the Ninth Circuit, both among the legal community in the Ninth circuit and national organizations, such the Federal Bar Association. The Judicial Council of the Ninth Circuit, the circuit's governing body, has repeatedly voted in opposition to division of the circuit. H.R. 908, which was passed on a voice vote by the House on June 3, 1997, calls for a commission to investigate structural alternatives for the Federal Court of Appeals. It is crucial that a costly and precedent-setting move such as splitting the Ninth Circuit Court of Appeals be carefully considered prior to implementation. No circuit has ever been divided without careful study and the support of the judges and lawyers within the circuit.

Splitting the Ninth Circuit would create the only two-state circuit in the country and would take away the important federalizing function of the court of appeals. Additionally, judges would be disproportionately allocated between the two new circuits—the 15 judges in the new Ninth Circuit would have a 44 percent higher caseload per judge than the 13 judges of the newly-created Twelfth Circuit.

The House Judiciary Committee and the Administration oppose the Senate language on the grounds that it constitutes legislating on Appropriations. I urge the House/Senate Conferees on the Commerce, Justice, State Appropriations bill to maintain the House position on this matter and call for further study on the issue before taking such decisive and potentially damaging action.

Mrs. MORELLA. Mr. Chairman, I would like to begin by congratulating Chairman ROGERS for his subcommittee's work to fully fund the National Institute of Standards and Technology [NIST].

NIST is the Nation's oldest Federal laboratory. It was established by Congress in 1901, as the National Bureau of Standards [NBS], and subsequently renamed NIST.

As part of the Department of Commerce, NIST's mission is to promote economic growth by working with industry to develop and apply technology, measurements, and standards. As the Nation's arbiter of standards, NIST enables our nation's businesses to engage each other in commerce and participate in the global marketplace.

The precise measurements required for establishing standards associated with today's increasingly complex technologies require NIST laboratories to maintain the most sophisticated equipment and most talented scientists in the world. NIST's infrastructure, however, is failing and in need of repair and replacement.

NIST currently has a maintenance backlog of over $300 million. In addition, NIST requires new laboratory space that includes a higher level of environmental control—control of both vibration and air quality—than can be achieved through the retrofitting of any of its existing facilities. In order to meet this pressing need, NIST must construct an Advanced Measurement Laboratory [AML].

As part of the sums appropriated for NIST, H.R. 2267 includes $111 million for construction, renovation and maintenance for NIST's laboratories. Of that total, $94 million is reserved until NIST, through the Department of Commerce, submits its construction plan to Congress.

The Report accompanying the bill specifically states:

The Committee has included funding above the request to address NIST's facilities requirements identified in this plan, but has included language in the bill providing for the release of the $94,400,000 increase only upon submission of a spending plan in accordance with section 605 of this Act. This spending plan should reflect the priorities identified in a long-term facilities master plan.

Mr. Chairman, the AML is indeed NIST's number one new construction priority. In NIST's just released ''NIST Laboratory Facilities: Planning Status Report,'' NIST states that ''all of the analysis leading to the new [construction] plan has verified the need to construct an Advanced Measurement Laboratory [AML] in Gaithersburg.'' It is my expectation that when the construction plan is finally released by the Department of Commerce and the Office of Management and Budget, the AML will top the list of construction projects for NIST.

I would like to again thank Chairman ROGERS for his support of NIST and its facility needs.

Mr. ETHERIDGE. Mr. Chairman, I rise in opposition to final passage of H.R. 2267, the Commerce-Justice-State appropriations bill, despite my strong support for certain provisions of the bill. I fully support most provisions in H.R. 2267 which provides funding for the Commerce, Justice, and State Departments, the judiciary, and other related agencies. However, as the Representative for a rural, tobacco growing district in North Carolina, I oppose final passage of this legislation.

I support those provisions in H.R. 2267 addressing crime, environmental protection, and technology advancement. Specifically, of the $30 billion included in the bill, I favor the $5.3 billion for the Violent Crime Reduction Trust Fund, the $497 million increase for the Immigration and Naturalization Service which would provide for 1,000 new border control agents and 2,700 more detention cells, the increase by $129 million for the Drug and Enforcement Administration, $112 million more for the National Institute of Standards and Technology, $250 million for the Legal Services Corporation [LSC], including more thorough oversight by the Congress of the LSC without overburdening its effective administration, the Advanced Technology Program [ATP], National Endowment for Democracy, and increase by $1 million for fiscal year 1998 funding for the Office of the U.S. Trade Representative to equip the agency to defend national, state, local and territorial law adversely affected by international agreements.

The bill also contains an important provision passed by amendment which I co-sponsored, the Hoyer-Cardin-Etheridge amendment, to add $3 million to the National Oceanic and Atmospheric Administration's [NOAA] National Ocean Service Account to respond effectively to pfiesteria and pfiesteria-like conditions throughout the Eastern Seaboard. NOAA has the mechanisms in place to study and assess the causes of pfiesteria and how we can begin to control it. Our natural resources and waterways are simply too valuable for us not to act to protect both them and the public health. I hope this marks the beginning of a strong federal-state partnership to protect North Carolina's citizens and our waterways.

There are two provisions however to which I am strongly opposed: the Doggett amendment included in the bill and the bipartisan Mollohan-Shays amendment which is not. The Doggett language prohibits the use of funds in the bill to promote the sale or export of tobacco or tobacco products, and prohibits funds in the bill to be used to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products. I also strongly oppose the bill's language on statistical sampling as part of the 2000 Census. Statistical sampling will provide a more accurate census of the population and demographic groups of our country, including rural areas such as the Second District of North Carolina and save millions in taxpayer dollars.

I am hopeful the conference committee will correct these two provisions in the bill which hurt my district so that I may vote in favor of the crime, environmental, and advanced technology provisions I wholeheartedly support.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today to express my deep disappointment that the Fiscal Year 1998 Commerce-Justice-State House Appropriations bill once again eliminates all funding for the East-West Center in Honolulu, Hawaii.

The Asia-Pacific Region is an emerging economic and military power of increasing importance to the United States economy and national security. The United States now trades more with countries in the Asia-Pacific Region than with NAFTA countries or the European Union. In addition to trade and security, the United States and Asian Pacific countries continually seek to learn from each other about education, health care, new technologies, and development of alternative forms of energy. We cannot undervalue the importance of continuing close ties with this Region. One important way to show our long-term investment in U.S. Asian-Pacific relations is through the East-West Center.

For almost four decades, the East-West Center has played a key role in strengthening relations between the governments and people of the Asia-Pacific Region and the U.S.

The Center helps prepare the United States for constructive involvement in Asia and the Pacific through education, dialogue, research and outreach. Over 43,000 Americans Asians, and Pacific Islanders from over 60 nations and territories have participated in the East-West Center's programs.

In a region where nations and cultures have become more interdependent, the Center's

purpose is more important than ever. To carry out its mandate, the Center provides grants to undergraduate and graduate students, provides research and study fellowships, and sponsors conferences, workshops, seminars and meetings for training, research, and outreach purposes.

The East-West Center has already suffered a 58 percent reduction in direct federal support during the last two fiscal years. As a result, the Center overhauled its programs by reexamining their mission, prioritizing their activities, and streamlining operations. The Center has eliminated 122 of 255 staff positions as well as require research staff to raise 50% of their salaries from external sources.

To eliminate funding would be not only a blow to the center itself, but to our commitment to the Asian Pacific region. Elimination of all funding would ensure the closing of the East-West Center. We as a nation would be sending the message that the United States no longer cares about the Region and that U.S. Asian-Pacific relations are no longer a priority. Placing short-term goals of budget cutting ahead of long-term economic and international security in the Asia-Pacific is shortsighted and ill advised. I urge my colleagues to join me in supporting efforts to restore funding to the East-West Center in the final Commerce-Justice-State Appropriations bill.

Mr. FAZIO. Mr. Chairman, as the debate on the Commerce, Justice, State and the Judiciary Appropriations bill comes to an end, I would like to mention a small but vital Small Business Administration program—the National Women's Business Council. The Council was created by Congress in 1988, and it is charged with being an independent, bipartisan advisor to Congress and the President on women's entrepreneurship. The members of the Council are prominent women business owners and leaders of national women's business advocacy organizations, who are devoted to helping other women start and expand businesses.

Recent studies have shown that only 1.6 percent of the investments made by venture capitalists go to women-owned businesses despite the proven success of women's businesses, and this shows that we still have a long way to go in leveling the playing field for women-owned businesses. The National Women's Business Council is working to correct these and other inequities women's businesses face. The Council promotes bold initiatives, policies, and programs designed to foster women's businesses at all stages of development.

The National Women's Business Council seeks to become the nucleus of a national network of women business owners and their advocate to the executive and legislative branches. It helps provide information for women starting new businesses on how to access capital, credit training and technical assistance, and it distributes information on the success and innovation of women-owned businesses.

In my home district, in Sacramento, California, there are over 50,000 women-owned firms, employing over 85,000 people and generating over $10 billion in sales. These firms represent thirty-nine percent of all firms in the Sacramento metropolitan area. The National Women's Business Council has been instrumental in helping many of these firms become the successes that they are.

We must continue to encourage women to start businesses and provide them the assistance they need to remain viable. I commend the members of the National Women's Business Council on their hard work, and I encourage my colleagues in Congress to do the same.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILLMOR) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 239, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

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The SPEAKER pro tempore (Mr. GILLMOR). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. COLLINS. Mr. Speaker, I demand a separate vote on amendment No. 2 offered by the gentleman from Illinois [Mr. HYDE].

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

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Part II amendment printed in House Report 105–264:

Page 116, strike line 16 and all that follows through line 2 on page 117 and insert the following:

SEC. 616. ATTORNEYS FEES AND OTHER COSTS IN CERTAIN CRIMINAL CASES.

During fiscal year 1997 and in any fiscal year thereafter, the court, in any criminal case pending on or after the date of the enactment of this Act, shall award, and the United States shall pay, to a prevailing party, other than the United States, a reasonable attorney's fee and other litigation costs, unless the court finds that the position of the United States was substantially justified or that other special circumstances make an award unjust. Such awards shall be granted pursuant to the procedures and limitations provided for an award under section 2412 of title 28, United States Code. Fees and other expenses awarded under this provision to a party shall be paid by the agency over which the party prevails from any funds made available to the agency by appropriation. No new appropriations shall be made as a result of this provision.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BONIOR moves to recommit the bill H.R. 2267 to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 199, not voting 7, as follows:

[Roll No. 476]

YEAS—227

Abercrombie	Deal	Holden
Aderholt	DeLay	Horn
Archer	Diaz-Balart	Houghton
Armey	Dickey	Hoyer
Baesler	Dicks	Hulshof
Baker	Dixon	Hunter
Baldacci	Doyle	Hutchinson
Ballenger	Dreier	Hyde
Barr	Dunn	Inglis
Barrett (NE)	Ehlers	Jenkins
Barrett (WI)	Emerson	Johnson (CT)
Barton	English	Johnson (WI)
Bass	Eshoo	Kanjorski
Bateman	Everett	Kasich
Bereuter	Ewing	Kelly
Berman	Farr	Kim
Bilbray	Fawell	Kind (WI)
Bilirakis	Foley	King (NY)
Bliley	Forbes	Kingston
Boehlert	Fowler	Klink
Boehner	Fox	Klug
Bonilla	Franks (NJ)	Knollenberg
Bono	Frelinghuysen	Kolbe
Borski	Gallegly	LaHood
Boucher	Ganske	Latham
Brady	Gekas	LaTourette
Brown (CA)	Gilchrest	Lazio
Bryant	Gillmor	Leach
Bunning	Gilman	Lewis (CA)
Buyer	Goode	Lewis (KY)
Callahan	Goodlatte	Linder
Calvert	Goodling	Livingston
Camp	Goss	LoBiondo
Canady	Granger	Lofgren
Cannon	Greenwood	Luther
Castle	Gutierrez	Matsui
Chambliss	Gutknecht	McCarthy (MO)
Christensen	Hall (OH)	McCollum
Coble	Hall (TX)	McCrery
Collins	Hamilton	McDade
Condit	Hansen	McHale
Cook	Hastert	McHugh
Cooksey	Hastings (WA)	McKeon
Cramer	Hayworth	Metcalf
Cubin	Hefner	Mica
Cunningham	Herger	Miller (CA)
Danner	Hobson	Miller (FL)
Davis (VA)	Hoekstra	Mollohan

Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Rogan
Rogers
Ros-Lehtinen
Saxton
Schaefer, Dan
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)

NAYS—199

Ackerman
Allen
Andrews
Bachus
Barcia
Bartlett
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Blunt
Bonior
Boswell
Boyd
Brown (FL)
Brown (OH)
Burr
Burton
Campbell
Capps
Cardin
Carson
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Conyers
Costello
Cox
Coyne
Crane
Crapo
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Doggett
Dooley
Doolittle
Duncan
Edwards
Ehrlich
Engel
Ensign
Etheridge
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Graham
Green
Harman
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hostettler
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Largent
Levin
Lewis (GA)
Lipinski
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
McCarthy (NY)
McGovern
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moran (KS)
Nadler
Neal
Neumann
Norwood
Oberstar
Obey
Olver
Owens
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Poshard
Radanovich
Rangel
Riley
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Shays
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stump
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Wexler
Weygand
Woolsey
Wynn

NOT VOTING—7

Gonzalez
McDermott
Roukema
Schiff
Schumer
Yates
Young (FL)

□ 2050

Messrs. COX of California, OWENS, ENGEL, GIBBONS, and RILEY changed their vote from ''aye'' to ''no.''

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1171

Mr. KASICH. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Pennsylvania [Mr. MASCARA] be removed as cosponsor of H.R. 1171. He was added in error.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 244, SUBPOENA ENFORCEMENT IN CASE OF DORNAN V. SANCHEZ

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 253 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 253

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 244) demanding that the Office of the United States Attorney for the Central District of California file criminal charges against Hermandad Mexicana Nacional for failure to comply with a valid subpoena under the Federal Contested Elections Act. The resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the resolution and the preamble to final adoption without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; and (2) one motion to recommit which may not contain instructions and on which the previous question shall be considered as ordered.

The SPEAKER pro tempore [Mr. GILLMOR]. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, this resolution is a rule which provides for consideration of House Resolution 244. It is a resolution relating to subpoena enforcement in the case of Dornan v. Sanchez. The rule provides for 1 hour of debate, divided equally between the chairman and ranking minority member of the Committee on House Oversight. The rule also waives points of order against consideration of this resolution.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, the resolution this rule brings to the floor today is an attempt to express the will of this House relating to the proper enforcement of a subpoena issued under the Federal Contested Elections Act.

The House will be asserting, by voting on this resolution, that ignoring a valid subpoena issued under this act is an affront to the dignity of the House of Representatives and to the integrity of its proceedings.

We will hear from Members of the House on the Committee on House Oversight to explain the facts of the case during the debate on this resolution. But it is important to consider the relevant statutes in question at the onset of this debate, and I would like to take a minute just to make sure that we all understand those statutes.

As the debate on this resolution unfolds, which is likely to be acrimonious, at best, I would ask Members to keep in mind these important provisions of law: Members should also be aware of their constitutional responsibilities as they consider this very, very difficult issue.

First, Article I, Section 5 of the Constitution states that each House, that means the House and the Senate, shall be the judge of its own elections, of its own returns, and qualifications of its own Members. That is Article I, Section 5 of the Constitution of the United States. This provides the groundwork for the House to judge contested elections involving its seats, a responsibility the House has practiced since the early Congresses, 200 years ago.

Also, the Federal Contested Elections Act, enacted in 1969, sets forth the procedures for candidates to contest an election in this House of Representatives. The act provides for filing a Notice of Contest with the Clerk of the House, among other congressional procedures. Furthermore, the act sets forth procedures for subpoena for depositions.

The Contested Elections Act is also very specific in ''allowing subpoenas to be issued by any party in the elected contest.'' That is a quote. We heard considerable testimony on that subject in the Committee on Rules for several hours last night.

As the Members are well aware, there is a contested election pending in the 46th district in California. On March 17, 1997, and this is important for the Members to understand, the United States District Court issued a subpoena under the Contested Elections Act for the deposition and records of Hermandad Mexicana Nacional. The Committee on House Oversight voted to modify the subpoena and require compliance by a date certain, that date

being May 1, 1997. To date, compliance with this valid subpoena has not occurred.

It should also be noted that, in the exercise of its proper role under the Contested Elections Act, the Committee on House Oversight met on September 24 just past and quashed several subpoenas, including one to the contestee in the case, the gentlewoman from California [Ms. SANCHEZ].

□ 2100

Last week, Mr. Speaker, the United States District Court upheld the constitutionality of the deposition subpoena provisions of the Contested Election Act. House Resolution 244, the resolution before us today, will put the House on record asserting that the rights of the House as an institution and the dignity of its proceedings under the Constitution and under Federal law are called into question by the lack of compliance with the subpoena.

Now, Mr. Speaker, last night during the Committee on Rules consideration of the resolution, a member of the Committee on Rules, the gentleman from Florida [Mr. DIAZ-BALART], expressed concern that the drafting of the resolution violated the spirit of the constitutional doctrine of separation of powers. Because of this Congressman's concerns, I will be offering a manager's amendment to this rule that will address his concerns. This amendment to the rule will change the text of the House Resolution to read as follows:

Resolved that the House of Representatives demands that the Office of the United States Attorney for the Central District of California carry out its responsibility by filing, and that part is what is in the bill right now, but we would then add to that, pursuant to its determination that it is appropriate according to the law and the facts. And then we go back to the regular language in the resolution which states criminal charges against Hermandad Mexicana Nacional for failure to comply with a valid subpoena issued under the act.

The phrase again, what I would be offering in the manager's amendment, which I understand will probably be accepted by the other side, simply says, pursuant to its determination that it is appropriate according to the law and the facts, is what we are inserting.

Mr. Speaker, the amendment to the rule tightens the language of the original resolution to satisfy the concerns of the gentleman from Florida [Mr. DIAZ-BALART], and at the appropriate time I would urge support of the amendment and the rule.

Mr. DIAZ-BALART. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. DIAZ-BALART. Mr. Speaker, I will be brief.

The chairman of the Committee on Rules was correct in stating that I expressed my serious concern, in fact was not able to support this rule last night. I opposed this rule last night because of my concern related to the separation of powers, not with regard to the process of discovery in this case.

I agree with the U.S. District Court for the Southern District of California that, and I would quote the court, in the review of its discovery process, Congress is not seizing a function not constitutionally entrusted to it, and there is no separation of powers violation, end quote, but, rather, in the demand that the resolution makes that the U.S. Attorney for the Central District of California filed criminal charges.

It was alleged more than once during the almost 4 hours that we listened to the testimony in the Committee on Rules last night that legal authority exists preventing that outright demand by Congress of the U.S. attorney. The Gorsuch case in the 1980's, specifically in 1983, was referred to.

So what we do with this amendment that the chairman of the Committee on Rules is proposing to the rule is to state and make clear that when the House makes its demands upon the U.S. attorney, that the determination to prosecute must be made by the U.S. attorney pursuant to its finding that it is appropriate according to the law and the facts in this case.

The evidence that the subpoena at issue in this matter has been ignored after hours of testimony in the Committee on Rules became very evident. The fact that no one is above the law in the United States of America must be made clear. We made clear in this House just a few weeks ago that the rules of this House also cannot be violated when we barred from the floor of this House the contestant in this matter.

With the amendment that we are proposing to the rule, Mr. Speaker, we are going the extra mile to make certain that absolutely no constitutional precepts are violated when the House of Representatives insists upon the principle that the law must be followed.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Florida, and if it is all right, I would say to the gentlewoman from New York, so that we are debating the actual resolution, I would at this time propound the unanimous-consent request that the amendment to House Resolution 253 that was placed at the desk be considered as adopted now.

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

The Clerk read as follows:

Amendment Offered By Mr. SOLOMON:

At the end of the resolution add the following new sections:

''Sec. 2. Notwithstanding any other provision of this resolution, the amendment specified in section 3 of this resolution shall be considered as adopted.

''Sec. 3. The amendment described in section 2 of this resolution is as follows:

Page 3, line 4, after 'filing' insert the following: ', pursuant to its determination that it is appropriate according to the law and the facts,'.''.

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

Mr. MENENDEZ. Reserving the right to object, Mr. Speaker, I would like to turn to the distinguished chairman of the Committee on Rules to ask a question.

I heard my dear friend and colleague from Florida [Mr. DIAZ-BALART] describe what he believes is the reasoning behind this, and I would like to ask the chairman, ''Exactly what is your intent in this language?''

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

Mr. MENENDEZ. I yield to the gentleman from New York.

Mr. SOLOMON. It is exactly as the words that the gentleman from Florida [Mr. DIAZ-BALART] has asked us to place in it. Pursuant to its determination that it is appropriate according to the law and the facts. He just wants to make sure that we are not infringing on another branch of the Government, which he explained.

Mr. MENENDEZ. Does this indicate that the U.S. attorney has not made a determination that is in accordance with the law and the facts at this time?

Mr. SOLOMON. No, it does not.

Mr. MENENDEZ. Does it determine that he has made a determination?

Mr. SOLOMON. No, it does not.

Mr. MENENDEZ. So it is up in the air as to whether or not he has a determination pursuant to the law and the facts. We do not know whether he has made one.

Mr. SOLOMON. As far as the resolution is concerned, the gentleman is correct.

Mr. MENENDEZ. OK. So, in essence, what we will be doing if we permit this specific language to amend it is to demand that the U.S. attorney carry out his responsibility even though we recognize that a basis to determine whether or not the laws and the fact in this issue should rise to the level of pursuing a criminal charge has been made.

Mr. SOLOMON. I would just say to the gentleman, it makes no material difference whether it is in or out or not. This simply states the fact that they will be pursuant to law and to facts, whatever they may be.

Mr. MENENDEZ. Continuing on my reservation of objection, Mr. Speaker, I just have a simple question; maybe I misstated it.

The simple question is, are we saying that we do not know whether or not, or do we know whether the U.S. attorney has made a determination pursuant to the law and the facts that this is appropriate?

Mr. SOLOMON. No, and I do not know.

Mr. MENENDEZ. We do not know.

Mr. SOLOMON. I do not know.

Mr. MENENDEZ. And so by placing this in there, we are recognizing that it is the responsibility of the U.S. attorney to determine that it is appropriate pursuant to the law and the facts.

Mr. SOLOMON. It is his responsibility.

Mr. MENENDEZ. And we do not know whether he has made that determination yet or not.

Mr. SOLOMON. No, but we sure want to find out.

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

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

There was no objection.

The SPEAKER pro tempore. Without objection, the amendment is agreed to.

There was no objection.

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

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

Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding me the customary time.

Mr. Speaker, I rise today to strongly urge my colleagues to defeat this rule and the resolution that it makes in order for several reasons.

First, there are still, in my view, major separation of powers concerns regarding this resolution. If I can repeat, I still think that the major separation of powers question remains because we are still demanding that action be taken.

Since when does this Congress demand that any law enforcement arm is to bring criminal action against private citizens? The majority knows very well it is beyond our power to compel compliance with this resolution, and the proof of that is the fact the resolution has no legal effect whatsoever. The role of Congress is to enact legislation, not to enforce it.

Second, the Committee on House Oversight has failed to make even the most basic determination that enough specific votes were in question to bring into doubt the, certified by the Secretary of State of California, the certified 984 vote margin. Common sense would mandate that the Committee on House Oversight should have been able to substantiate specific allegations of the mistaken counting of at least 984 identified votes before beginning the investigation. But no, we continued the investigation for 10 months and still are not able to identify enough votes to negate this outcome, and that is unconscionable. The Committee on House Oversight has allowed an election contest based not on facts or even specific allegations, but on innuendo and unsupported, vague assertions.

From the very beginning, the supposed investigation has been a fishing expedition trying desperately to find enough votes and voters to justify its own continuation, and what do we have after 10 months? Very little. The majority on the committee is now looking for distraction to draw attention from its inability to make a case and its unwillingness to dismiss it.

The red herring it offers today is a resolution that purports to demand that the United States attorney file criminal charges against an organization for its failure to comply with the subpoena issued by the defeated incumbent in the election, not by the House of Representatives, but by a defeated incumbent, a normal citizen, while knowing full well that this Congress has no authority to demand any such thing.

Third, simply as a procedural matter this resolution is premature. A court has just ruled on the constitutional status of the Contested Election Act last week. The time for appeal of that court ruling has not even expired, and yet this resolution nevertheless purports to demand that criminal charges be brought against an organization for failing to comply with subpoenas issued pursuant to that act. At the very least, it is inappropriate for this Congress to be acting so precipitously when it is still possible that a court of appeals may reverse the lower court's decision.

Mr. Speaker, I urge my colleagues to reject this attempt to divert attention from this committee's true responsibility and end this unwarranted fishing expedition. It is time for this committee to fish or cut bait. It has specifically identified sufficient invalid votes to overturn the certified 984-vote margin or declare an end to this floundering and this misbegotten challenge.

The amendment that we just passed unanimously I think reinforces what we were saying, that this resolution has absolutely no power behind it. We cannot demand another branch of the Government do anything, and in fact, frankly, I think what we proved again here is a simple phone call perhaps might have sufficed, but to tie up the Houses's time with a resolution is beyond the pale.

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

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

Mr. Speaker, I really would like to just be frank for a few minutes and, as my colleagues know, just try to clear the air a little bit, because I personally want to be as fair as I can on this issue.

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

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

Mr. HOYER. Mr. Speaker, I was wondering if the gentleman was just going to be frank for a few minutes.

Mr. SOLOMON. I will be as frank as my friend would like me to be, for as long as that.

But, as my colleagues know, I have heard the gentlewoman, whom I have great respect for, from Rochester, NY, use the term ''red herring'' and talk about fishing and cutting bait, and to tell the truth, I wish I was fishing and cutting bait right now up in the Adirondacks. It is a beautiful time up there. I invite all of my colleagues to come up when the beautiful colors appear at this time of the year.

Ms. SLAUGHTER. I mentioned flounder, too.

Mr. SOLOMON. Let me point out the difference on how we Republicans are handling this, because we are trying to be fair, and the gentlewoman from New York [Ms. SLAUGHTER] said we ought to be rushing this thing, we ought to be getting it over with. But I just go back to years ago before many of my colleagues were on this floor. I have been here for 20 years. But there was a situation where there was a gentleman by the name of Rick McIntyre from Indiana had won an election. He was certified by the State of Indiana as the winner, and in spite of that certification at that time, the Democrat-controlled Congress would not seat the certified winner.

□ 2115

But in fact, seated the loser, another good friend of mine, a Democrat by the name of Frank McCloskey.

Now, the point is this: In this disputed case, we did not try to rush this through and not seat the certified winner, the gentlewoman from California [Ms. SANCHEZ], because she should have been seated and she was, and she is here today; yet, we went ahead and we tried to investigate the matter.

Now, that is the difference. We did not rush to it and seat the loser, we seated the certified winner. But yet, it is terribly important if we are going to have an elected process in this country that it be a fair process, and we need to get to the bottom of it and that is really what we are attempting to do here. So I wanted to clear the air.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Columbus, Ohio [Ms. PRYCE], to further clear the air.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me this time, and I rise to express my support for both this rule and the underlying resolution.

House Resolution 253 is a closed rule to govern debate on a very serious matter that speaks directly to the issue of whether this institution is willing to demand that the laws it passes are honored and enforced. It is both that simple and that important.

Mr. Speaker, we will hear plenty of impassioned debate today that will be driven by politics and influenced by personalities. The gentlewoman from California [Ms. SANCHEZ] is a pleasure to serve with and we all take pleasure in her company, but this is not about personalities. The resolution that this rule makes in order addresses the willful failure of the Hermandad Mexicana Nacional to comply with a valid legal subpoena.

However, some of my colleagues clearly are missing the point. It does not matter who requested the subpoena; it does not matter what the subpoena is expected to uncover, nor does it matter what the ethnicity is of the parties served by the subpoena. What is significant is that the subpoena is valid under the processes laid out by a Federal law that has been on the books for over 25 years.

How long can this body sit idle as the Hermandad completely ignores this subpoena and, in effect, challenges the legitimacy of the Federal Contested Elections Act? The bottom line is that if one breaks the law, then one must face the consequences, but somehow our friends on the other side of the aisle express outrage at this very simple principle.

Are they really suggesting that voter fraud should not be investigated? Are they really suggesting that non-U.S. citizens should be allowed to vote? And if the Department of Justice is content to drag its feet in the face of this defiance, then as a former prosecutor and a former judge, I believe it is the responsibility of this House to send a strong message that we demand that the law be enforced.

It is a sad day for all of us when we cannot expect this body, which is sworn to uphold the Constitution, to honor this very basic legal process.

The other side's deliberately inflammatory charges are an insult to this great institution and to the American ideal of fair and honest elections. We keep hearing clamoring for campaign reform. Well, I respectfully suggest that we enforce the laws that we have at hand. That is what this resolution is about, and I encourage my colleagues to support both the rule and the underlying resolution.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, in 1996 the voters of Orange County elected LORETTA SANCHEZ and defeated Bob Dornan. Now, that is the way the American democracy is supposed to work: voters get to choose who represents them in Congress. The gentleman from California [Mr. THOMAS] and the Republican leadership seem to have forgotten that. They are trying to deny voters their choice through an outrageous campaign of harassment against the gentlewoman from California [Ms. SANCHEZ] and half a million Americans.

The committee has abandoned its proper role to evaluate evidence and has assumed the role of partisan prosecutor. They say they are simply looking for information, but according to many press accounts, the Republican leadership has already decided the case in favor of Mr. Dornan.

The committee appears willing to go to any extreme. The gentleman from California [Mr. THOMAS] even directed the INS to comb through the records of 40 million Americans, trying to dredge up private information that somehow could be used to support Mr. Dornan's wild allegations. Of those 40 million Americans, half a million were singled out for further investigation. Of these, 50 percent were Hispanic, 30 percent were Asian.

Now, who are the actual people singled out as suspicious? Let us take a look. Mr. Dornan claims Carmen Villa was not entitled to vote because she was not an American citizen. Quite the contrary. She is proud to be an American citizen. She is proud to be an American citizen and she displays her naturalization certificate to prove it.

Mr. Dornan even questioned the voting rights of 18 Dominican nuns and a group of 18 active-duty Marines based at a helicopter air station.

The gentleman from California [Mr. THOMAS] continues to press on with this sham investigation, assuming thousands of Americans are guilty until proven innocent.

Now, that is not the American way and that is not the way the American system is supposed to work. The burden of proof should be on Mr. Dornan, not on thousands of Americans who simply exercised their constitutional right to vote.

So I call on this evening, and my colleagues will hear others call on this evening, the Republican leadership to stop this harassment.

This has been a terrible day for many Americans in this country. We just went through a process on the census and on sampling. Four to 10 million Americans were denied in the last census of being counted. They are people like every single one of us in this body. They deserve representation.

We got rid of three-fifths counting a long time ago. Now that my colleagues on the other side do not want to count them, they do not want to count the votes of those people who are American citizens who come and vote and exercise their right. This harassment has gone on long enough. We call for this resolution to be defeated and we call on this rule to be defeated.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, we should be very clear on what this resolution says. It forthrightly demands that the United States attorney do whatever he thinks he ought to do. Now, I did not realize that we had become the paymasters of the U.S. Government. Apparently this is kind of a bed check on the U.S. Attorney. It demands, it does not recommend, it demands, that he do whatever is appropriate.

I guess, if that is all the majority has to do with its time, that may be a better way to take up time than others, but I think we ought to vote against the resolution anyway.

In the first place, it is kind of a silly precedent to set; not a bad precedent, but a silly one, and understand, that is what the resolution does. It demands that he do what he thinks is appropriate.

I suppose we could offer an amendment that we demand that he not do what he thinks is inappropriate, and we might also demand that if he is undecided, that he make up his mind. I mean, why pull any punches. I also, however, want to argue for letting the U.S. Attorney make the determination that they should not go forward.

This has been a day. I started this morning, and three times today I have seen the Republican Party repudiate what used to be conservative legal doctrines. In 1983, William French Smith, the United States Attorney General under Ronald Reagan, said, ''No, Congress, you cannot tell me to prosecute a contempt citation. You cannot tell me to prosecute for failure to comply, because the way to deal with it is through the civil process.''

No one is saying that Hermandad, who seem to be the victims in this case of a fishing expedition, no one is saying that they can simply ignore the law. They went to court; they are contesting it. A single district court judge has decided against them.

Now, all year the Republicans have said that when a single district court judge rules on affirmative action or a single district court judge rules on something else, on immigration, ignore it. That is arbitrary. Now we have a single district court judge, and what is this organization saying? They want to appeal the decision. They have constitutional arguments to make. The constitutional argument is that the subpoena issued not by this House, but by Robert Dornan, might not be appropriate. I am myself not used to hearing the words ''Dornan'' and ''appropriate'' in the same sentence. I think that is a valid constitutional argument to make.

What we are saying is, let them proceed with an appeal. Instead, the Republicans said no, no, William French Smith in 1983 filed a lawsuit to enjoin the House of Representatives from doing a contempt citation. That is what the gentleman from Florida [Mr. DIAZ-BALART] was referring to. He called the lawsuit, by the way, to show his respect for this institution: The United States of America versus the House of Representatives. The judge threw out the lawsuit, but there was an agreement that a civil process would be a way to go forward. What we are saying here is, we will prosecute these people criminally in the middle of their appeal process.

Now, I have to say that is what we originally demanded. We should come back to what happened. Because of the gentleman from Florida [Mr. DIAZ-BALART], my colleagues have backed off, and are now, with a very silly resolution, demanding that the man do his job, but the context makes it worthy of defeat.

Mr. Speaker, maybe my colleagues will amend the resolution again while I am speaking, but I just again want to point out, conservatism ought to be some consistency to principle. I want to make a point, by the way. People talk about the McCloskey-McIntyre election. As a Democrat, I voted not to seat Mr. McCloskey. I thought he was a great Member, but I was not sure he won that election. No, I do not believe you to be partisan, but I think to deny this group the right to their civil appeal is a grave error.

The Republicans recently, in an amendment passed earlier today, decided that the constitutional doctrine of standing does not mean anything because we want to get at statistical sampling in the census. In the Committee on the Judiciary today they decided to have the Federal courts further involve themselves in zoning matters because of property rights.

The notion that conservatism stands consistently for a set of legal principles is being thrown out the window with such rapidity that passersby probably ought to be warned. Yes, I think it is a good thing that my colleagues backed off on the resolution and that it no longer demands, it no longer makes any sense, but given the context in which it came forward, I think we ought to vote ''no.''

Mr. SOLOMON. Mr. Speaker, hesitating to respond, let me yield 2 minutes to the gentleman from California [Mr. COX], a very distinguished member that used to work for the Reagan administration, to respond to Mr. FRANK.

Mr. COX of California. Mr. Speaker, I thank the gentleman, and appreciating fully the arguments just advanced by my colleague from Massachusetts and former law school classmate, if there is just one Federal district judge that has ruled here, then we ought not to listen to the Federal courts when he ruled that a subpoena is not validly enforceable and what really matters is that people be given time to appeal, then one would think that we would not hear from the gentleman, that this thing has got to be over and shut down, that we cannot have an investigation, that it is taking too long.

However, there are two simultaneous arguments. One is, this investigation should be dropped, it has not turned up anything after all of these months. The other is, we have litigated this through the district court and lost, but we deserve an opportunity now to litigate further and appeal. If you get to appeal and argue some more, even though you have already lost in Federal district court, obviously that consumes weeks and months and so on, and meantime, the subpoena issued under the Federal Contested Elections Act is not honored, the documents are not returned, the investigation cannot go forward, it is stalled.

So pick your arguments. Either say we are going to have more time for this investigation because we need to wait for the Court of Appeals to rule on the validity of the subpoenas, or say we are in a rush and therefore the way the district court has ruled has to be adequate here, and let us go and enforce the subpoena based on the district court ruling.

Obviously, we cannot walk north and south at the same time, but we are trying to get this done in a hurry. The Federal Contested Elections Act contemplates that we would decide this in what we would consider to be real time, that is, an election cycle, rather than what in the Federal courts typically is a normal period of time for civil litigation, which can be 4 and 5 years and so on.

I think we are doing the right thing here by drawing the attention of the Justice Department and the U.S. Attorney's office to the issuance of a valid subpoena, something that has been litigated in district court, as you point out, Hermandad lost, they tried to resist the subpoena, and at this point Congress, in support of our own process, the Federal Contested Elections Act, and it would not matter if this were the Democratic Congress in control and so on, it would be the same story.

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We ought to stand behind the legal process, both of this Congress and of the Federal courts.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, in the first place, there was not a subpoena issued by the committee. They are looking for these facts the way they think. But here is the problem. We are talking about private citizens, Hermandad. They cannot be forced, I think, to give up their constitutional rights for the convenience of this House's process.

What the gentleman is saying is these people who are asserting their constitutional right to privacy should be put under the threat of criminal prosecution, and I am saying no, they have a right as a citizens' group to their full appeal process. The gentleman's insistence on subjecting Hermandad to criminal prosecution, cutting off their right of appeal, seems to me unfortunate, no matter how convenient it might be for this House.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. KILPATRICK], a member of the committee.

Ms. KILPATRICK. Mr. Speaker, I do not want us to lose sight of why we are here. Let us concentrate on that.

I rise in opposition to this resolution, after having sat on that committee for now nearly 10 months. They do not have the evidence. If they had it, they would bring it forth. The subpoena has been issued and this organization has complied. Members might not know that in January, the District Attorney in California drove a truck up to Hermandad and seized their records, everything; computers, files. They did a sweep of their hard drive. Members might not also know that on August 17 those same records were turned over to our committee. They have the records. Use the records, if they have them. And if there was something to be found, believe me, this House of Representatives would have found it.

Let the gentlewoman from California, Ms. LORETTA SANCHEZ, go. She won the election by over 900 votes. She has been certified by the Republican Secretary of State. She has won in the recount, some more than 900 votes. I think it is horrendous.

Let us defeat this resolution. Let us let the gentlewoman from California [Ms. SANCHEZ] serve. She has been castigated and harassed enough. What is at stake is this institution. Will we allow an election won by some 900, nearly 1,000 votes, be overturned by constant, constant harassment?

This House of Representatives has authorized over $300,000 in legal fees for this witch hunt. I would much rather see that in senior meals, senior services and health services. We have to rise up in a bipartisan way. This must come to an end. Let us defeat this resolution. Let the gentlewoman from California [Ms. SANCHEZ] serve her constituents in the 46th district. She has accumulated over $500,000 in expenses.

Are we really a Congress for the people? Let us get back to the business of American citizens. Let us get to the work of jobs and industrial health for our people in this country. Let us defeat this resolution. Let the gentlewoman from California [Ms. SANCHEZ] get back to work, and let us go about the business of building America.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I think this is a day that we need to focus on the facts. The facts become as clear as day if we would just open our eyes. That is that neither the committee nor the Republican Orange County District Attorney nor California State officials have ever substantiated that one single vote has been fraudulently cast in this election.

Then what is the issue, Mr. Speaker? The issue may be the Republicans have had an 8-year history in southern California of intimidating Latino voters at the polls; that they have paid to settle two voting intimidation cases, one from 1988, in which the Orange County Republican Party literally placed security guards at the voting polls in Hispanic neighborhoods, with signs designed to scare Hispanic voters, and the other case in 1989.

These efforts are not limited to California or to Hispanic voters. In Bergen County in New Jersey, in 1996, Republicans distributed a flyer in black precincts stating that dire consequences would follow for anyone who tried to vote who owed money, was guilty of misdemeanors, or any other number of possibilities.

The real issue is that Republicans do not want to place themselves in Hermandad's shoes. There are no more files, as have been represented. If there are, this organization has the right, the absolute right, to pursue its constitutional remedy. Just imagine if we would put a siege upon other citizens who are in the process of pursuing their constitutional rights, yet we in this body would insist that we want to instruct the U.S. attorney to implement a criminal procedure to deny

someone their constitutional right? Is it because they have a Hispanic-sounding name that they can be subject to this kind of attack and abuse?

I think the Republicans need to recognize if they have something, get to the floor of the House and deal with it. If they have nothing, allow the gentlewoman from California, [Ms. LORETTA SANCHEZ], to maintain her position and represent her constituents. Turn down this rule and allow Americans to believe in this country once again.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule on House Resolution 244, which demands that the Justice Department file criminal charges against Hermandad Mexicana Nacional for failing to comply with a subpoena issued by Representative Bob Dornan. Late last night the Rules Committee recommended a closed rule which blocks all amendments to the resolution. It is an outrage that the committee would allow such a resolution to come to the floor and an even further outrage to recommend a closed rule.

Representative SANCHEZ was elected to the House of Representatives in November 1996 from the 46th District of California. Since that time, she has been besieged by attacks from former Representative Bob Dornan as he attempts to prove that his defeat last fall was the result of voter fraud, not the will of the people.

Like the entire election contest, this resolution is about politics, pure and simple. Congresswoman LORETTA SANCHEZ has fully complied with requests for information relating to voter registration, organizations relating to voter registration and absentee balloting. She has objected only when those subpoenas became so intrusive as to demand access to her personal financial data. Further, the constitutionality of the subpoenas under the Federal Contested Elections Act was decided only last week. The House should, therefore, at the very least allow Hermandad a reasonable period from the time of the court's decision to respond.

I could not agree more strongly that allegations of voter fraud must be vigorously pursued and, when found meritorious, prosecuted. However, in this instance, 10 months and more than $300,000 in taxpayer's money have been spent, and yet no evidence of fraud has been presented. To this day, no one—not the committee, not the Republican Orange County District Attorney, and not California State officials—has substantiated that a single vote has been fraudulently cast in this election.

Mr. Speaker, the U.S. House of Representatives must not become a partner to Mr. Dornan's desperate charges. It is beneath the dignity of this body. I urge my colleagues to join me in saying enough is enough and to oppose the rule to House Resolution 244.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I stand today to ask this Congress, which I hope is a fair Congress, to defeat this rule and the resolution. There is no precedent in the Constitution for someone to receive the authority on the part of Congress to issue subpoenas, so the committee took care of this. They issued him the authority to issue subpoenas.

Mr. Speaker, what a shame on this country to see that happening in this day, when we have a young Hispanic woman who has given of herself to come forward to serve her country. What kind of message does this give to the other young Hispanic women in this country? What kind of message does it give to all young women in this country? Come forward, and we will just whittle away the votes that you have so that we can take your seat.

Mr. Dornan is receiving an authority that I know I would not receive. I know that as a black woman, if I came before this committee, they would never give me a chance to subpoena anything. They would send me back to where I came from. They would never give me a chance. It is constitutionally wrong, it is logically wrong, and it is morally wrong.

But do we want to stick with morals? Do we want to allow this young Hispanic woman to stand before this country, to say this Congress gave me a chance just because some male was defeated in California by 900 votes? She won. That is not the worst of it. She is going to win again when she comes up, and they are not going to take it away from her.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California, Mr. BILL THOMAS, the distinguished chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I will try to explain some of the arguments that have been made, because frankly, they have been factually wrong. I do not want anyone who is listening to the debate to believe that the statements that have been made, because they are not challenged, means that they are correct. They are not.

Mr. Speaker, the Orange County district attorney subpoenaed the Hermandad records, but as we know, when that subpoena is used as a criminal subpoena there is a fourth amendment search and seizure right, so you have to specify exactly what it is that you need. As a matter of fact, the Orange County district attorney has indicated that not all of the records and not all of the materials were obtained with the subpoena that he placed.

The reason that the committee placed a subpoena on top of the Orange County district attorney's subpoena was that that subpoena was being challenged. We wanted to make sure that those records were not lost. There are additional records out there. This subpoena, under the civil section of the statute, can obtain that additional material.

Our job is to get to the bottom of it. We want to know everything that Hermandad was involved with. Obviously, during debate on the resolution, I believe when I describe Hermandad, it will be a slightly different organization than has already been explained. These people have violated the law. The Federal and the State government has revoked their charters. They have taken money from them. These people are criminals. What we are trying to do is find out the extent of their activity. We need to have as many subpoenas as possible.

This resolution, after this rule passes, is not about the gentlewoman from California [Ms. LORETTA SANCHEZ], it is not about Bob Dornan. It is about people obeying the law, and it is about the House of Representatives demanding that the law be obeyed. That is what it is about.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

I hope we are very careful how we use words on this House floor. When we talk about criminals, that means someone has in a court of law been convicted. The gentleman from California [Mr. THOMAS] just referred to individuals who are under investigation. There are a lot of folks that sit on this House floor who are under investigation, but we do not call them criminals.

Mr. Speaker, I would just urge that all of us during this debate be reasonable, and understand that when we refer to things, we use accurate words to describe what is going on. It is not accurate to say that there are criminals. There are people under investigation. In this country, you are innocent until proven guilty.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me the time.

The Los Angeles Times, May 22, 1997, I quote, ''In an apparent violation of Federal and State tax laws, Hermandad was also found in the audit to have spent $107,184 that it withheld from its employees' wages to satisfy Federal income taxes. Its director admitted that withholding the taxes was against the law.''

Ms. SLAUGHTER. . Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I have listened to my Republican colleagues, and they use very sinister language. They try to give the impression that those of us on this side are the ones, that the people that voted for the gentlewoman from California [Ms. LORETTA SANCHEZ] are all illegals or criminals, I think I heard the term, or otherwise badly motivated people.

This sinister language borders on racism. I have to say that, because it really concerns me. They claim, they claim to be so self-righteous, but they

are the ones that are seeking to tear up the Constitution here tonight in this House of Representatives that we value so much. They know that the gentlewoman from California [Ms. SANCHEZ] was duly elected and certified by the State of California.

What gives the Republican leadership the right to overturn her election? Because they are the majority here in Washington? If the majority here determines what happens in Orange County, CA, then we have the worst form of tyranny that the Founders of this country sought to guard against in the Constitution.

This is an effort to intimidate voters, specifically Hispanic voters. Republicans want Hispanic and other minority voters to stay home at election time.

I listened to what the gentlewoman from Texas [Ms. SHEILA JACKSON-LEE] said. I remember that election in New Jersey when those warnings were put up at the polling places, and I saw armed guards in camouflage and guns, I do not know if they were real guns, but they tried to give the impression that they had guns, because they did not want minorities to vote.

Mr. Speaker, what is going on here is not right. It needs to end. Let us start right now by defeating this rule and defeating the underlying resolution. This resolution is nothing but a hoax to try to hide what they are really trying to do here, and that is steal this election from the voters of Orange County and the American people.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Speaker, I have served here for 41 years and more. I have seen an awful lot of these kinds of challenges of elections. I never saw one like this. I have never heard charges of crime made about what appears at this time, at least, to be reasonably innocent behavior with regard to the election process. I have never seen subpoenas delegated in such an outrageous fashion by a committee of this body to a single individual, to be hurled around like confetti in a parade.

I have never seen the kind of behavior that brings, I think, this House into such low esteem. It gives every appearance that what we are doing is not inquiring into an election, but rather, that we are harassing a woman who is of obvious good character and integrity, who has been certified as having been duly and properly elected.

This proceeding tonight and the other proceedings that have been associated with this give a very bad appearance with regard to this body. I would think my colleagues on both sides would be embarrassed by what it is we are seeing happening tonight.

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We have a criminal process going on out there in California to inquire into whether or not there was criminal misbehavior. Let that process go forward. Let us have the kind of proper inquiry that we have always had into these kinds of election situations, to find out what has happened. Let us not give the appearance of harassing innocent, law-abiding Hispanic Americans because they have chosen to vote. Let us not bring this body into discredit by the kind of behavior in which we are engaging.

I would tell my Republican colleagues, with all respect and with all affection, what it is that you are doing tonight is sowing a terrible wind. And you will reap the whirlwind, because it is not just going to be the fact that you bring discredit on this body by the behavior that I am seeing before me tonight or what I have seen in connection with your loose use of the subpoena and the enforcement process of this body. What is happening here is, you are creating further distrust and disrespect for this body.

It is going to have a bad effect on each and every one of us, whether we are Democrats or Republicans, but it is going to do something worse than that. It is going to do it to you, I would say to my Republican colleagues, because citizens all of a sudden are going to realize that elections are not about fighting out the issues in an honorable and a proper way and having an intelligent discussion of what it is that concerns the people, whether they be Hispanics, minority members, or whatever they might happen to be, but rather, it is win at any cost, win with any device, use the powers of this body to elect somebody who was clearly not elected by a fair election and who was clearly not elected by any vote of the people. And what you are giving the appearance of what you are seeking to do is to eject a legitimately elected Member of this body.

People are going to remember this. Be prepared to reap the whirlwind. You deserve it.

Mr. SOLOMON. Mr. Speaker, two quick points to the departing gentleman: I would hate to see the action he would take if a subpoena by his committee were not answered. Second, I hate to see Members bring up this business about stealing elections. My good friend and a gentleman I respect from Michigan was here in 1985 when there was a stolen election, and everybody knows it.

Mr. Speaker, I yield 3 minutes to the gentleman from Poland, Ohio [Mr. TRAFICANT], another respected Member of this body.

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

Mr. TRAFICANT. Mr. Speaker, I think this is an important debate. I believe it is a needed debate. There are Members on the Democrat side of the aisle who will not like what I have to say, and I will not explain it later, I will explain it now.

To me, this is not about LORETTA SANCHEZ. I believe under heavy pressure she has done a remarkable job, and I want to commend her. This is not, to me, about Bob Dornan. To me, it is not about Democrats at all and it is not about Republicans at all.

To me, this issue is about the possibility that illegal votes may have determined the outcome of a Federal election in our country. That is the issue before us. This is not about somebody that misplaced some ballots. This is not about a mistake of interpreting counts. This is about the possibility of illegal votes corrupting a Federal election. Congress must not allow a precedent to be set tonight that would allow the Federal election process to be corrupted or give the impression that we have soft-pedaled that possibility.

In my opinion, any individual or organization that has information or evidence in this matter should be compelled to comply. If the Justice Department does not pursue it, then, by God, Congress shall demand it. Congress must ensure enforcement. The Constitution requires it. The amount of illegal votes cast in this election must be carefully sought out; the exact numerical count must be known to Congress.

Let me say this: If there is any precedent to be set in the House of Representatives tonight, it should be a precedent that preserves the integrity of the election process. Let me say one other thing. The ox that may seem to be gored tonight is an ox different than what we see that might be gored tomorrow.

I support the rule. I support the bill. I believe the gentlewoman from California [Ms. SANCHEZ] has done a remarkable job, but the taint of her election must be removed and Congress must ensure, whether it is a Democrat or a Republican or any other party or an independent Member, that their rights are protected and that election and the integrity of that process is worthy of an individual being seated in this body.

Ms. SLAUGHTER. Mr. Speaker, if I could take just a second to correct what I think is a grave injustice here, the comment has been made several times this evening that these were committee subpoenas. I think it needs to be pointed out once again, these were given by a private citizen, Mr. Robert Dornan of California.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, what is happening here tonight is enough to give abuse of power a bad name. This act brings only one question into my mind: Does this body still believe in the biblical admonition, ''Thou shalt not steal?'' All I have to say about what you are about to do tonight is shame, shame, shame, shame, shame.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from New York for yielding me the time.

With all due respect to my colleague from Wisconsin, putting personalities aside, dealing strictly with law, if this House of Representatives fails to take action to live up to the Constitution and the letter of the law, then shame, shame, shame, shame on this House and this process.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, the question here tonight is why, why are we doing this? The American public knows the results of last November's elections. Look at those elections. There were six elections that were less than 1,000 votes. But look at the names: FOX, TIERNEY, SMITH, SMITH, BROWN, and, guess what, one SANCHEZ.

Why were not the elections where there was only 84 votes difference contested? Why was not the election of the gentleman from Massachusetts [Mr. TIERNEY] contested? He lives close to the Canadian border. Perhaps some people who speak English crossed over the border and voted for him. Why were not the Smiths and the Browns challenged? This is a challenge to LORETTA SANCHEZ, a Latino woman.

The State of California's secretary of state certified her election. She is of the people, by the people, and for the people. Do not abuse that.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from California [Mr. BECERRA].

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

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Let me begin by first saying, as I think has been repeated often on my side, this resolution has no effect. The founders of this country, in drafting the Constitution, made it clear that we as politicians have no role of telling the Department of Justice how to prosecute.

We cannot demand that they prosecute, and I thank the gentleman from Florida for making it clear, with the amendment that we have all accepted, that we cannot do anything with this resolution. It is just posturing. If we cannot do anything with this resolution, what are we really doing?

I think there are probably three things that we can say are behind this particular resolution and its intent. Either it is an intent to bootstrap this electoral investigation that we know is going nowhere and perhaps to justify, and I want to say it now on the record, perhaps to justify in the future some action by this House to possibly vacate the seat of the gentlewoman from California [Ms. SANCHEZ] using this as an excuse for being able to do that.

Second, as many are whispering, maybe, as some have said, maybe it is payback time for 1985, because Republicans feel that there was an election stolen in 1985. So if that was a wrong, maybe two wrongs will make a right.

Or, third, perhaps it is just a downright honest attempt to intimidate voters, in this case Latino voters, who are now beginning to vote. Perhaps you do not like that they are beginning to vote.

Regardless of what the intent is, there is a message that you are sending, whether you like it or not. It is to folks like my parents. My father was born in this country but speaks broken English and probably falls within the category of folks you want to go after. My mother was not born in this country, speaks better English than my father, and is a U.S. citizen of this country, and she probably is on that list of names that you are now disclosing, violating her privacy rights in the process of doing so.

You are sending a message to these folks. You are telling them you do not want them to participate, you do not care about what they do, you do not value their worth as citizens.

I will just say this: Remember this, because the message will be sent. I will say, as I conclude, I do not need to talk to my parents about this vote. They will be watching. And just like my parents will be watching, there will be a lot of other folks who, for the first time in 1996, had a chance to vote. Some of them voted for LORETTA SANCHEZ. Some of them may have even voted for Bob Dornan. But they will remember what this House of Representatives is doing, because you certainly are not out to get a conviction, you are not out to get a criminal investigation, but you are certainly out to get the hides of people who have participated in this American process. That is wrong.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CAMPBELL].

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

Mr. CAMPBELL. Mr. Speaker, I am very sorry to have heard what I have heard tonight, because the references to race and gender are not what concern me. What does concern me is fairness, and the investigation of the honest outcome of an election should concern all of us.

The certification by the secretary of state is not a certification that there was no fraud. We know that. The matter deserves to be investigated. It does not deserve to be trivialized and to be said that we are simply doing what we do because of racial motivation. What a sad comment when our attempts to enforce the law, to enforce the prerogatives of our constitutional office, are taken instead to mean that we are acting in a racially motivated manner.

The statute says that failure to abide by a subpoena is a misdemeanor. We draw attention to the United States Attorney for the Central District of California of this violation, and we ask that he proceed pursuant to the determination that he would make or she would make. It is a sorry day.

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

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from California [Mr. HUNTER].

□ 2200

Mr. HUNTER. The rule of law, my colleagues, it is the most precious thing that we have, and perhaps the most precious rule is that we vote and the person with the most votes wins. And sometimes it means for us, in fact, at times during all of our careers, we have agonizing defeats. The winner that has a victory sometimes goes on from that victory to a defeat fairly shortly thereafter, but it is the central part of our democracy. It is the heart of our democracy.

We had a group which took immigrants who were trying to become naturalized citizens and registered and voted those immigrants knowing that they had not yet raised their hands and become citizens of the United States. And from that group we want to get more information. That is absolutely appropriate.

I remember during the Contra wars of the 1980's, when we tried to export this precious thing called democracy to El Salvador and the guerrillas tried to stop the elections, we had one woman waiting in line who actually had a bullet wound in her arm, and she would not leave the line to get medical aid because she said, ''I must vote. I must participate in this democracy.''

All we want to see is who got the most votes. We can do no more and we should do no less for our country.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I want to respond to my good friend from California [Mr. CAMPBELL], and I challenge any Member in this House that has the certificate from the Secretary of State certifying that there was no fraud in their election. When I got my certification from the Secretary of State, it did not specify that there might not have been some fraud in my election.

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

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

Mr. CAMPBELL. Mr. Speaker, my statement was that the certification by the Secretary of State was not a certification that there was an absence of fraud. It is a certification of the numerical outcome of the election.

Mr. HEFNER. Mr. Speaker, reclaiming my time, I would say to the gentleman that the gentlewoman from California's certificate was a certification that she got more votes than anybody else, and fraud was not mentioned.

Mr. CAMPBELL. Mr. Speaker, if the gentleman will continue to yield, I stand by what I said.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Maryland [Mr. HOYER] is recognized for 2¾ minutes.

Mr. HOYER. Mr. Speaker, this is an important resolution. The outcome of this vote tonight on this resolution will not decide the Sanchez-Dornan case. It will, however, be a statement as to whether or not we are going to proceed in a fair, judicial manner. I agree with the gentleman from California, that is the way we ought to proceed.

The gentleman from Massachusetts observed what has happened with this resolution. In the first instance, the committee proposed the harshest resolution it could ascribe, demanding that a U.S. citizen be indicted for crimes while under investigation by another body, the district attorney. My colleagues, that would not wash. It would not even wash with the majority of the majority party, and so that resolution was rightfully changed, and we did not object to that change.

The title was not changed. It still demands that the U.S. attorney seek criminal action against a citizen who has, as we have pointed out, still his and the organization's constitutional rights to contest the validity of the subpoena that is pending.

This resolution I have called precipitous. I believe it is. In response to the gentleman from Florida [Mr. DIAZ-BALART] yesterday, I said that what we ought to do, if we feel this way, is write a letter to the U.S. Attorney and say we think that he ought to take the appropriate action because the subpoena has not been responded to.

My colleagues attempt to adopt my suggestion by adopting language which now says that we demand, as the gentleman from Massachusetts [Mr. FRANK] pointed out, that pursuant to its determination, that is the U.S. Attorney's office, that it is appropriate, according to the law and the facts. In other words, do what you think is right.

Do we go around passing resolutions through the House of Representatives demanding that people do what they think is right when we know, my friend from California, the gentleman talks about the sanctity of a vote, the sanctity of the Constitution is something we are all sworn to preserve and protect, and it accords to every citizen that when the government moves against him or her that they have a right to go to the courts of this land and say ''I need not respond.''

Let us not put the House of Representatives in a position prematurely of demanding the denigration of that absolute constitutional right. Vote ''no'' on this resolution. Vote ''no'' on the final resolution.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from San Antonio, Texas Mr. HENRY BONILLA, one of the most respected Members of this body, in my mind.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BONILLA] is recognized for 2½ minutes.

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

Mr. BONILLA. Mr. Speaker, the debate tonight started out on the high road, and I was highly impressed and glad to see Members that are opposed to this resolution standing up and arguing the validity of this case on its merits. I even had a tremendous amount of respect and watched with great attention when the gentleman from Wisconsin [Mr. OBEY], my colleague on the Committee on Appropriations, stood up and got very emotional to tell us that he disagreed strongly with what we were doing tonight.

But then the debate deteriorated to those who choose to play the race card, when it is inappropriate, when they know they have lost other merits in their argument. That is unfortunate.

Three of my four grandparents emigrated here from Mexico at the turn of the century to seek a new life for their children and grandchildren. They did not come here to set up an isolated society within this country. They came here to be Americans first and to become part of the melting pot of this country that stood for certain values that all of us could benefit from regardless of what country we came from.

This country has prospered greatly because of the great immigration that we have seen from every part of the world. We should all be proud of that. To see Members tonight talk about racism is totally unjustified and they should be ashamed of themselves for doing that.

Members cannot tell me this is racism. I grew up in a barrio, in a Spanish-speaking neighborhood in South Texas, always with a dream that someday I would be able to aspire and work towards the American dream.

The implication among those who cry racism is one that says if a burglar broke into their home, that somehow they should have a different standard if the person is of a different color or ethnic background. How dumb an idea can that be? We are talking about people who are possibly implicated in crimes here. This Hermandad Mexicana Nacional, or whatever they call themselves, is one of the most corrupt organizations that has ever existed that is receiving Federal money.

We are trying to get to the truth of this. This has nothing to do with the gentlewoman from California [Ms. SANCHEZ] or Mr. Dornan. And if the gentlewoman comes out winning this election after this investigation is finished, I will be the first to congratulate her on her victory.

This is about justice, this is about finding out the truth. That is what all Americans want in every corner of the country, and I urge all Members to support this resolution and the resolution tomorrow as well.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution, as amended.

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

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 202, answered ''present'' 1, not voting 10, as follows:

[Roll No. 477]

YEAS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra

Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED ''PRESENT''—1

Sanchez

NOT VOTING—10

Gonzalez
Houghton
McDade
Oxley
Schiff
Schumer
Smith (OR)
Yates
Young (AK)
Young (FL)

□ 2229

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

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINCHEY. Mr. Speaker, earlier today I was delayed en route to the vote on Treasury-Postal appropriations. If I had been in the House, I would like the RECORD to reflect that I would have voted in the affirmative.

SUBPOENA ENFORCEMENT IN THE CASE OF DORNAN VERSUS SANCHEZ

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 253, I call up the resolution (H. Res. 244) demanding that the Office of the United States Attorney for the Central District of California file criminal charges against Hermandad Mexicana Nacional for failure to comply with a valid subpoena under the Federal Contested Elections Act, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 244

Whereas the contested election case of Dornan v. Sanchez is pending before the Committee;

Whereas the Federal Contested Elections Act (2 U.S.C. 381 et seq.) (hereafter in this resolution referred to as the ''Act'') provides for the issuance of subpoenas, and on March 17, 1997, United States District Court Judge Gary L. Taylor issued such a subpoena at the request of the Contestant for the deposition and records of Hermandad Mexicana Nacional;

Whereas on April 16 1997, the Committee voted to modify the subpoena by limiting production of documents to the 46th Congressional District (among other modifications), and as perfected by the Committee, the subpoena required Hermandad Mexicana Nacional to produce documents and appear for a deposition no later than May 1, 1997;

Whereas Hermandad Mexicana Nacional failed to produce documents or appear for the deposition by May 1, 1997, and still has not complied with the subpoena;

Whereas Hermandad Mexicana Nacional, by willfully failing to comply with the lawfully issued subpoena, is in violation of section 11 of the Act (2 U.S.C. 390), which provides for criminal penalties;

Whereas on May 13, 1997, the Contestant wrote to the United States Attorney for the Central Distract of California, Nora M. Manella, requesting that action be taken to enforce the law with respect to Hermandad Mexicana Nacional, and on June 23, 1997, the Committee wrote to the Department of Justice inquiring as to the status of this request for criminal prosecution, and the Department responded on July 25, 1997, that the criminal referral remain ''under review'';

Whereas the United States Attorney's failure to enforce criminal penalties for the violation of the Act encourages disrespect for the law and hinders the Constitutionally mandated process of determining the facts in the contested election case, including the discovery of any election fraud that may have influenced the outcome of the election; and

Whereas on September 23, 1997, the United States District Court for the Central District of California ruled that the deposition subpoena provisions of the Act are constitutional: Now, therefore, be it

Resolved, That the House of Representatives demands that the Office of the United States Attorney for the Central District of California carry out its responsibility by filing, pursuant to its determination that it is appropriate according to the law and the facts, criminal charges against Hermandad Mexicana Nacional for failure to comply with a valid subpoena issued under the Act.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 253, the gentleman from California [Mr. THOMAS] and the gentleman from Connecticut [Mr. GEJDENSON] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

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

Mr. Speaker, it was contended earlier that this resolution really does not make the Department of Justice do anything.

Of course we cannot, but what we can do is express the will of the House in terms of the direction that the Department of Justice should go, and as a matter of fact we pass concurrent resolutions all the time, and as a matter of fact, we have passed some recently.

For example, in the instance of the burning of churches in the South, the concurrent resolution stated that Congress hoped that the Department of Justice would pursue with all vigor the criminals and prosecute them. The resolution did not mean that the Department of Justice was going to do it, but we felt strong enough that the House wanted to tell the Department of Justice what we thought they should do.

What we are talking about in terms of asking the Department of Justice to look at is a direct violation of the law. The Contested Elections Act says that if someone does not honor a subpoena, they are deemed to be guilty of a misdemeanor, and we want the Department of Justice to enforce the law.

But probably in the greater sense, this is actually the story of victims. There are two major groups of victims. Directly the first group of victims are those documented aliens who placed their trust in becoming citizens in the hands of an organization who betrayed their trust. Indirectly, there are victims, and those are the citizens who voted and trusted the authorities, us, to make sure their votes were not diluted unfairly and contrary to law. The group that betrayed the trust of documented aliens were people who were using government money, both Federal and State, purportedly to assist documented aliens to become citizens.

The gentleman from Massachusetts said that perhaps Hermandad should be looked at as a victim rather than the individuals that I mentioned who are actually the real victims. Let us take a closer look at Hermandad. Tens of millions of dollars, taxpayer money, runs through this organization. They have broken both Federal and State law.

According to a Los Angeles Times article in February of this year, Hermandad offered a 1996 Chevrolet Camaro to the winner of a lottery as an inducement to register to vote. The winner of the lottery who registered to vote through Hermandad was not a United States citizen. Although Hermandad is a tax-exempt organization that is prohibited from participating in partisan politics, subpoena records show that Hermandad ran endorsements for political candidates in its newspapers. It also, through its State-funded computers, tracked over $700,000 in campaign contributions,

sorted Members by election precinct, and logged potential voters' political views.

A series of articles in the Los Angeles Times in April and May tracked the sordid financial record and the attempt to hide from the Government through stonewalling of the audits the misuse of money. Eventually an independent audit of Hermandad was carried out and it found that the group misspent or could not account for more than a half a million dollars of taxpayers' money.

An audit found that in addition to workers not being paid for months, Hermandad owed hundreds of thousands of dollars in Federal taxes and State employment benefits and they even stiffed Santa Anna Hospital Medical Center because they failed to repay a $27,000 loan. In fact, the California State Attorney General has recommended that Hermandad's nonprofit status be revoked for the failure to file necessary financial statements with the State.

In addition, the records subpoenaed by the Orange County district attorney and evaluated by the Los Angeles region of the Immigration and Naturalization Service, prior to Washington shutting down that operation, discovered more than 300 people who voted who should not have voted according to the law of the State of California.

There is a voter registration card used by people who register in the State of California. It starts off on the very top row, ''Are you a citizen?'' Two boxes, yes, no.

Mr. Speaker, I am pointing out that on the form that people sign it says, ''Are you a U.S. citizen? Check yes or check no.'' If one checks no, it says, ''If no, don't fill out this form.'' There is no argument about when they were going to become a citizen. If they were going to become a citizen prior to the election, it says ''If you're not a citizen, don't fill out this form. If you don't fill out this form, you aren't a registered voter. But if you fill out this form and you're not a citizen, you're in violation of the law.''

Over here it says, ''Warning, it is a felony if you sign this statement even though you know it is untrue. Voter declaration: Read and sign below, I am a U.S. Citizen.''

So we are talking about people who violated the law, but I think the individuals who cast those votes illegally were the victims. They were the victims because they were induced to do so by Hermandad.

The gentlewoman from New York said, ''You know, there is no reason for us to try to pursue this resolution to get the Department of Justice to do something. Maybe we could clean it up with a simple phone call.''

Several Members said, in fact, the gentleman from Maryland said, ''Why don't we just write them a letter?'' Perhaps the gentleman, notwithstanding the fact he is on the task force, is not familiar with the record, and I would ask that we place in the record a chronology, beginning on March 19 when we attempted to get Hermandad to simply follow the law; that is, to respond to a subpoena.

The record runs through March, April, and May. We finally wrote to the Department of Justice and said, ''Please respond.'' Twice we wrote and said, ''Please respond.'' We got back, ''We are looking at it''.

Into July, into August, and now into September, when there is a clear violation of the statute, there was no willingness to require Hermandad to produce documents. So we are here on the floor tonight to see if the House has sufficient resolve to simply tell the Department of Justice to carry out the law so that the task force can examine the other records that Hermandad has.

As I pointed out under the rule, the subpoena of the Orange County DA did not cover all of the records of Hermandad because it covered a specific assigned subpoena in particular rooms. The civil subpoena, to which Hermandad has refused to respond, would provide additional documents.

This organization is not a mom-and-pop struggling local operation. For half a century they have laundered Federal funds. They have now been exposed, and we still cannot get these people to respond to the law that is, ''Could we please take a look at what they did in creating a group of victims who were preyed on and probably in the worst possible way?'' These people placed their trust in an organization backed by taxpayers' dollars to make them U.S. citizens, and in fact they were used illegally for political purposes.

The House of Representatives should tell the Department of Justice to enforce the law.

HERMANDAD MEXICANA NACIONAL SUBPOENA TIMELINE

March 19: HMN Custodian of Records served with Dornan subpoena.

March 21: HMN files Motion to Quash Subpoena with CHO.

April 6: CHO votes to modify Dornan subpoena to require protective order and limit the scope of HMN subpoena and authorize letter ordering response by May 1.

April 18: CHO issues modifications to subpoenas issued by Dornan on HMN and issues order to comply by May 1.

May 13: Hart files criminal complaint against HMN with U.S. Attorney Nora Manella.

May 1: HMN fails to comply with Dornan subpoena deadline.

June 2: Hart writes to Manella asking for a response to the May 13 request for HMN prosecution.

June 9: Hart writes to Manella asking for a response to the May 13 request for HMN prosecution.

June 17: Hart writes to House Oversight (CHO) asking for assistance in soliciting a response from U.S. Attorney regarding criminal complaint.

June 23: CHO writes to DOJ Deputy Attorney General requesting advisement on the status of the HMN criminal complaint.

June 30: CHO writes to DOJ Deputy Attorney General again requesting advisement on the status of the HMN criminal complaint.

July 2: Assistant U.S. Attorney Jonathan Shapiro writes to Hart requesting that Hart return to Judge Taylor to seek contempt order. Shapiro says that until such action is taken, his office will not file criminal action.

July 3: Hart writes to Assistant U.S. Attorney Shapiro to explain that Judge Taylor has deferred all enforcement responsibilities to CHO and that CHO has ordered HMN to comply with Dornan's subpoena (April 18 letter from CHO to HMN).

July 8: Assistant U.S. Attorney Shapiro writes to Hart requesting documents and supporting authority regarding subpoena enforcement.

July 16: Hart responds to Shapiro request citing Taylor's Minute Order of April 16, 1997 which states that the House has jurisdiction over the subpoenas issued by Dornan.

July 21: Shapiro writes to Hart explaining that ''the proper authority to resolve discovery dispute and enforce these subpoenas is the House of Representatives.'' Shapiro also questions the authority of the House to demand that the U.S. Attorney act.

July 25: Hart writes to CHO requesting that the Committee issue an order directing the U.S. Attorney to investigate and prosecute HMN.

July 25: Assistant Attorney General Andrew Fois writes to CHO explaining that the HMN complaint is a matter ''still under review''. He also states that ''further action by the Congress may be necessary before their (U.S. Attorney for the Central District) enforcement becomes ripe for judicial attention.''

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

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

The final speaker on the rule lamented the inclusion of race in this debate. In the crime statutes we have something called RICO, and it is used when there is a repeated pattern of activity in an organization that leads one to the conclusion that it is involved continuously in criminal activity. Let us take a look at the record here and why some people, some Hispanics and some non-Hispanics, could come to the conclusion that race might be part of this debate.

In 1980 in New Jersey, the Republican Party brought people to the polls in uniforms to intimidate minority and Hispanic voters from voting. They filed a consent decree not to do it any more. In 1992, the Republican Party of California paid $400,000 for the very same activities. Today on the floor, earlier when we were speaking of the generic, trying to get an accurate census count, a count that a Bush census director said made sense, that the National Academy of Sciences said made sense, that the General Accounting Office said made sense, and that would undercount minorities if it was not used, was blocked by the Republican majority.

□ 2245

Once again, keeping minority voters out of the political process. And guess where we are tonight? We are on the Sanchez hunt.

Now, this has not that much to do with Sanchez; this is a little diversion. As the gentleman from Massachusetts [Mr. FRANK], in his normal manner so aptly represented to this Congress, we started off with what was almost a bill

of attainder, demanding that the Justice Department prosecute these people. We are now sending the Justice Department a resolution, hoping that if they choose and see it to be correct, that they move forward.

Where are we and why are we here? The Speaker of the House, the gentleman from Georgia [Mr. GINGRICH] defeated a Democratic rival by 10 votes less than the gentlewoman from California [Mrs. SANCHEZ] has won her race.

The chairman of this committee is very concerned about leaks from the committee, and sometimes papers do get out here. I am not sure who lets those leaks out, but I have here from the Orange County Register, Mr. Dornan says, ''The seat will be vacated, there will be a new election.'' Dornan said his sources on the committee staff told him; goes on and on, and finally says that they will throw out the results of the election and give him the seat.

Now, let us go back to where we started. Mrs. SANCHEZ won the election. Mr. Dornan came forward with complaints. He found there was one household that had 18 voters in it, all with different last names. Another one had 8 voters in it with different last names, and then there was someone who voted from their place of work, and they were investigated. We found 18 U.S. Marines, 8 nuns, and a zookeeper. That is what Mr. Dornan's charges came to.

Now, in all of the races that we have had since the 1969 Act, we have not tried to find the INS as the arbiter of the results of the election, and there is a reason for that. If we ask the INS if we can use their data to figure out who should be on the voter list, they tell us we cannot do that because one's name ends up in the INS for lots of reasons. If one tries to get an aunt or an uncle over here, one's name ends up in the INS. Their documents maybe should be more perfect, but they will tell us, in every transmittal, that one cannot use these to figure out who votes and who does not vote and whether they should vote.

We have now had 14 requests to the INS. We have had piles of names, as much as 500,000, in a district where just over 100,000 voted; we have had submission after submission, trying to keep enough smoke in the air so Mr. Dornan's prediction can be carried out.

The standard for Members of this House ought to be pretty basic, and that is, if one wins by as many votes as the Speaker did, then one ought to be seated and one ought to be left alone. If there is skullduggery in this election and one cannot prove it after 10 months, after 11 months, do we keep this process going in an attempt to exhaust Mrs. SANCHEZ until the next election?

My friends, what is clear here is there are people who see illegal aliens under every couch. They see them running across the border to vote in masses in districts across this country. They have nothing else to do but leave their homes in Mexico and elsewhere in Latin America and come up here and vote. We do not have any evidence of it, but there are lots of suspicions.

Today we have a simple matter, but it is a symbol of a case that has been carried on too long and ought to come to completion. Reject this as a symbol of our rejection of a process that has been unfair to Mrs. SANCHEZ, to her constituents, and to this House.

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

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from Michigan [Mr. EHLERS], who is the chairman of the task force, a gentleman with unimpeachable integrity, a gentleman that brings pride on the House of Representatives.

Mr. EHLERS. Mr. Speaker, we have heard a lot of misinformation this evening. My purpose here is to simply try to lay out some facts and some information about the process that is used.

First of all, recognize that nothing is more sacred to the democratic process than to ensure that each legitimate voter be allowed to vote and that their votes be counted. Furthermore, that the voter be assured that no illegal votes be allowed to be cast or to be counted.

The principle of one person, one vote, or one citizen, one vote is extremely important in our system of government. So important, in fact, that the founders of our Nation decided to put it in the Constitution and ensure that the elections of the House were valid, and gave to the House itself the power, as we read in section 5 of Article I, near the beginning of the Constitution, that ''Each House shall be the judge of the elections, returns and qualifications of its own Members.''

Now, any contestant or any loser in an election may file a petition for a contested election. The committee does not choose to file these; the House does not. All of this discussion about picking on a particular person because the attributes of that person is simply false. The House has no control over which elections are contested. The losers of the election make that decision, and I am sure in this particular case we recognize that the person who filed the contest is not someone who would take advice from the House, the committee or anyone else.

Now, how does the House proceed? It has proceeded in various ways throughout the years the House has been in operation. Many, many contests have been filed over the years since 1789. All were filed under the constitutional provision. Some have been filed under statutes that were in effect at the time that the cases were filed, but there have been years when no statute was in effect, they were simply filed under the Constitution.

Our current law guiding this is the Contested Election Act passed in 1969. Under that, the duties and responsibilities of contested elections are assigned to the Committee on House Oversight, which then appoints task forces to investigate. I was appointed to the task force for this election. I did not seek that appointment. I did not want that appointment. It was almost as bad as being appointed chair of the Committee on Standards of Official Conduct.

It is a difficult task. It is particularly difficult for me to stand here and hear charges of racism, sexism and other charges when they are simply not true, and being unable to respond because of the nature of the case. There are many issues that are confidential. There are privacy statutes that have to be obeyed. Eventually, perhaps some of the details can be given, as we do in ethics cases, but I would urge those present and those listening in their offices not to judge the content of the case and the procedures by the comments that we have heard from some on the floor this evening.

Since 1789, the standard method of obtaining information in the case of a contested election has been the use of the subpoena. Even before statutes were written, the subpoena was used. There have been many contested elections over the years, and many thousands of subpoenas that have been issued in these cases. Currently they are issued within the confines of the Contested Election Act.

In this particular case, 51 subpoenas were requested by Mr. Dornan. The committee has the power, under the Contested Election Act, to review those subpoenas. We quashed 15 of them; 9 were withdrawn by the contestant. Six have been responded to; there was no response to 6; 13 have been ignored.

How can we enforce response? That is the question that faces the committee. If a subpoena is filed in a court, the court can use contempt proceedings. That power is not given us in the Contested Election Act. We must depend on the U.S. Attorney to bring actions in these cases.

The timetable in this case is that on March 19, a subpoena was issued on Hermandad Mexicana Nacional by Mr. Dornan. On April 16, the committee modified that. May 1, the response is due, no response is received. May 13, Mr. Dornan's attorney filed a criminal complaint with the U.S. Attorney. Nothing was done. June 2, the attorney once again asked for action. Nothing was done. June 23, the committee sent a letter to the U.S. Attorney. No response. June 30, another letter was sent, and we finally got a response saying, ''We are looking at it.'' We are now in September, and we are still trying to get enforcement on the action on the subpoena that was issued under the law which was passed by the House of Representatives.

What can we do? What is the next step? We thought the next step was for

the House to send a letter to the Department of Justice by way of the resolution that is before us right now. That is the next logical step. If the Department of Justice chooses not to respond again, the only next step is that we issue a committee subpoena, but I am sure that the recipients of the subpoenas would prefer dealing with a U.S. Attorney rather than dealing with facing contempt of the House of Representatives.

We simply cannot allow individuals to thumb their nose at the House of Representatives and say, we do not want to answer your subpoena, so we are not going to. It is a legal subpoena issued by a U.S. District Court judge, and it is very important that these subpoenas be responded to. Our task force needs the information. We have obtained some information from the INS through a committee subpoena. That is all we have available at the moment, but we need the information that will be provided by these various subpoenas, and once we have that information, we hope we can bring this case to a rapid conclusion.

Mr. GEJDENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

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

Mr. MENENDEZ. Mr. Speaker, should Hermandad Mexicana Nacional comply with the legal subpoena? Yes. But should the Republicans on the Committee on House Oversight have given Bob Dornan the power to issue that subpoena in the first place? Absolutely not.

Case in point: Scott Moxley, a reporter in Orange County and a former Federal Election Commission employee, had the temerity to write some disfavorable articles about Mr. Dornan. In response, Mr. Dornan issued a subpoena against him. In addition to this, according to published reports in Roll Call and in papers filed with the Committee on House Oversight, Mr. Dornan went to Scott Moxley's editor to try to get him fired, called the FEC in an attempt to dig up some dirt on him, which he was not able to do, and even resorted to harassing Mr. Moxley's father.

So forgive me if we have a little trouble with a process that gives Bob Dornan subpoena power over anybody.

Of all of the cases in which this Congress could step in and demand that legal action be taken, of all of the unacceptable outrages and defiance of our laws that take place in this country every day, that the majority party would choose Mr. Dornan's subpoena to take this extraordinary step is beyond me. Does this represent their view of the priorities of the American people?

It was the Reagan administration that successfully challenged Congress' attempts to tell the U.S. Attorney what to do, and that is why my colleagues on the other side amended it earlier. To insist on enforcing a particular course of action is to interfere and compromise an apolitical investigation of the facts.

We cannot send a message that condones this process, that gives credence to granting Bob Dornan subpoena power, or that singles out enforcement of this one subpoena as a law enforcement priority for this country.

□ 2300

Yes, let us talk about the Constitution that we have heard about here tonight. Let me tell the Members why, as one American of Hispanic descent, we are convinced that they are after us.

Republicans have taken an unprecedented action to overturn the election of Congresswoman SANCHEZ. They have given unprecedented subpoena powers under this statute to Mr. Dornan, which he has abused. They have undertaken to violate the privacy rights of the families of the gentleman from Texas [Mr. BONILLA] and my family and hundreds of thousands of others who have filed papers with the INS, expecting and demanding every right to protect their privacy rights in this country. And we start there. Is the IRS next? Is there an HIV registry next? Where is it that they will go to?

They have changed the standard of proof from one in which Mr. Dornan must prove his case to one where Congresswoman SANCHEZ must defend her duly certified election. Under this standard, the mere allegation of fraud takes the place of proving any fraud.

So imagine now that as a Member of Congress, you win with 1,000 votes. Under the standard being set by the committee, the mere allegation of fraud, which is what is going to happen in every election, will be sufficient to overturn your election. What must women and Hispanic Americans be thinking about when their votes are on the verge of being nullified by Republicans in this House? If there is no justice in this case, there will be no peace in this House.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Georgia [Mr. BARR], to shed some facts on the subject.

Mr. BARR of Georgia. Mr. Speaker, having been a former prosecutor and practiced law in the private sector, I thought I was somewhat familiar with various defenses that were raised in criminal prosecution and in civil proceedings, but during the past year, listening to the Reagan administration and listening to the other side tonight, there is a whole new universe of defenses that defense attorneys are not even aware of. We hear them daily from the White House: That law does not apply to me. That is an old law. That law has not been used very much. I am not a person under that law. This building is not a building.

We hear another one tonight. Despite the fact that the United States criminal and civil codes are replete with measures insuring that subpoenas, as duly and important court documents, can be enforced and are enforced, despite the fact that people can and are held daily in contempt for failure to respond to subpoenas, we have the preposterous statement on the other side just a short while ago that people in this country have an absolute civil liberties constitutional right to refuse to honor subpoenas.

Mr. Speaker, we must stand for the rule of law. It begins now.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

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

Mr. FAZIO of California. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California for yielding to me.

Mr. Speaker, the previous speaker either did not hear clearly the comments that were made, or has misrepresented them. I choose the former as the alternative.

What I said was that an American citizen has the right to go to court to question the constitutionality under which someone is asking that citizen to do something. In this case, that citizen has done so. The court just 8 days ago, I would say to the gentleman from Georgia [Mr. BARR], decided that they did have the constitutional right, and 8 days later, we demand that the U.S. Attorney take action, without giving the U.S. Attorney the opportunity to do so.

I think that is a precipitous and uncalled for action of this body sworn to uphold and defend the Constitution. That is what I said, I say to the gentleman from Georgia [Mr. BARR].

Mr. FAZIO of California. Mr. Speaker, reclaiming my time, it is time for this charade to end. Three hundred thousand dollars of the taxpayers' money has been spent, 10 months have gone by, and despite an incredibly long discovery phase, this committee has yet failed to produce any evidence to resolve this so-called contested election.

Despite unprecedented carte blanche investigative power given to the Committee on House Oversight and despite Bob Dornan's escapades, whether they be on this floor or on the Rush Limbaugh show, the vote count remains the same. Nevertheless, before us there is another puff of smoke just to prolong this investigation. This time it is a resolution that does nothing. It has no weight of law. We have all agreed to that. In fact, it is just another chapter in what is a never-ending saga designed to drain and assail the gentlewoman from California, Ms. LORETTA SANCHEZ, a woman whose election was certified by the California Secretary of State on December 9 of last year.

Mr. Speaker, someone watching this debate tonight could easily conclude that our Republican friends are going after this seat because it is held by a Latino woman in a district with a sizeable Hispanic population. Kick up

enough dust and maybe, just maybe, those voters will not show up at the polls again.

Do not count on it. This attempt to intimidate voters will have a backlash the likes of which we have never seen, not just in California, but across this Nation, where new immigrants are an emerging political force to be reckoned with.

I say to my Republican friends, it is time to face the facts. This election was won fair and square. I say, get over it. The gentlewoman from California, Ms. LORETTA SANCHEZ, is the Congresswoman from the 46th District of California, and the attacks that she has weathered will only make her stronger. We stand with her. We will help her prevail. I say to the gentlewoman from California, Ms. LORETTA SANCHEZ, all that she is putting up with tonight will be worth it when she returns to this body in the next Congress.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, what we are talking about is the right of a citizens group here. First of all, the resolution, of course, is hardly worth all this. The resolution originally demanded that the Justice Department do something. It now demands that the Justice Department think about doing something and then do whatever it thinks. It was amended. I should note that this is, I guess, an example of what is meant by a self-executing resolution.

This resolution has already executed itself. It cut off its head. But we still have a headless horseman stumbling around, and it is an obnoxious one, because here is the issue. A private citizens group has been denounced criminal by persons with constitutional immunity from any libel suit on this floor. They have been denounced as criminal partly, I guess, because they had a tax problem.

I guess that is going to be the precedent: somebody is shown not to have done right on taxes, and they are a criminal. The word will probably echo around here a lot, and make the parliamentarians earn their pay.

But the question is this. This organization has been the subject of a very broad subpoena, subpoenaing things that go to everything that is done, including political activity. They are trying to resist it. Important constitutional law has been made in America, the NAACP against Alabama, other organizations. Resistance of subpoenas has been important.

What we now have is a U.S. Attorney entitled to decide that a particular subpoena may have been so broad as to fail.

My colleague, the gentleman from Georgia said, where did you get such an idea? I will tell Members where, from William French Smith, Ronald Reagan's Attorney General, who told us when this House voted to cite Anne Gorsuch for contempt, when the House voted, not just one Member, when the House voted, not even an ex-Member, but when the House voted to cite Anne Gorsuch with contempt, William French Smith said, we are not going to prosecute because we disagree. We think that constitutionally there is executive privilege here. That is the precedent that held. No one tried to break it.

Here we have a group of private citizens engaged in political organizing who have gotten a subpoena, and they want to litigate it. What are the Members saying? Prosecute them, treat them as criminals. There is a process going forward now before the district court, and they want to appeal it, and they are saying, no, prosecute them.

My friend, the gentleman from California [Mr. CAMPBELL] said, well, we have to get this on. We do not sacrifice the constitutional right of association of private citizens because we are in a hurry, not that they seem to have been in such a hurry on this. But even if we are, citizens have a right to assert their constitutional rights.

To have the subpoena power in the hands of one individual who has clearly issued inappropriate subpoenas to the press, the committee has quashed some, this organization, and understand, this is not a subpoena specifically about who voted and who did not. It is a very broad subpoena issued by Mr. Dornan, and they are trying to figure out a way to litigate it, and to demand that they be criminally prosecuted is inappropriate.

To demand that maybe they should be criminally prosecuted if someone who has the job of thinking that they should think they should is not inappropriate, it is just too silly. It is unfortunately done to accommodate a political imperative that should not be taking up all this time in the House.

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I rise simply to defend the late William French Smith, who cannot be here to defend himself. When the Attorney General of the United States determined that it was not appropriate to institute on behalf of the Congress of the United States enforcement proceedings for a congressional subpoena, he was doing something very different than what we are talking about here tonight.

What we have before us is a subpoena that has been authorized by the United States District Court. No such authorization was given in the case of the Gorsuch subpoena. That was a subpoena issued by Congress without any court involvement.

Mr. GEJDENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Yes, Mr. Speaker, it was a subpoena that came from the former Member, Mr. Dornan, as opposed to one solemnly voted by the House in the course of an investigation. But the argument that it was not authorized by a district court, no, under our Constitution this House has the right constitutionally to issue contempt citations to try to compel testimony.

The Attorney General, I did not libel or defame the Attorney General, I simply quoted him. Being dead is not relevant. The fact is that the Attorney General said, it is wholly a matter of prosecutorial discretion whether or not we act on a contempt citation, and one voted by the whole House in the course of an investigation certainly has a great deal of standing.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, my Republican colleagues are engaged in a partisan, political probe against the gentlewoman from California, [Ms. LORETTA SANCHEZ], and this resolution is an attempt to prolong and to expand that investigation. Make no mistake, this is not the election of the gentlewoman from California in isolation; this is part and parcel of a Republican strategy that would in fact deny minorities in this country the right to vote.

Earlier today, the Republican majority denied the Bureau of the Census the ability to make a full count of Americans, fearing that such sampling methods would enfranchise undercounted urban minorities. This is un-American and it is simply wrong. The fact is that this resolution does not have the authority to force the Justice Department to do anything, and it intrudes on an ongoing legal process.

The gentlewoman from California, Ms. LORETTA SANCHEZ won this election by 1,000 votes. There were other much closer elections in 1996, and no others have been subjected to this kind of a witch hunt. The sore loser in this case was Bob Dornan, a man who cannot believe that he lost, a man whose vendetta against the gentlewoman from California is unprecedented, and a man whose behavior is so offensive that this Congress actually barred him from the floor of this House.

The Republican Party has chosen to go after a seat held by a Democratic Hispanic woman in a race where Hispanic votes may have determined the election. This is a deep insensitivity to the right of Latinos and Hispanics in this country to be able to vote. It is clearly an attempt by the Republican Party to create enough smoke to steal this election. If they cannot do that they hope simply to wear down the gentlewoman from California [Ms. SANCHEZ], depleting her time, her energy, her financial resources, in order to weaken her for reelection.

It will not happen. She will be reelected to this body. Do not disgrace the people's House tonight. Do not let this body allow for this sort of partisan political purpose. Vote down this resolution.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

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

Mr. STEARNS. Mr. Speaker, the gentlewoman from Connecticut [Ms. DELAURO], let me remind her and the gentleman from New Jersey [Mr. MENENDEZ] and the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Massachusetts [Mr. FRANK], as a result of an initial investigation into this matter, the Immigration and Naturalization Service, that is part of their administration, ordered that an arm of its citizenship testing program be shut down effective January 6, 1997. That is not Republicans, that is Democrats. Democrats decided to shut down a citizenship testing program after it was acknowledged and verified that there were proven cases of fraud.

I am not a lawyer. We can put up here the best lawyers and we can talk about subpoenas and go on and on, but their administration found there was acknowledged and verified fraud. So this is a concern of not just Democrats and Republicans and Independents, this is a concern of every Member of Congress; there but for the grace of God go you, me, any one of us.

If the administration of their party says on January 6, 1997, yes, there is fraud, we have acknowledged it, verified it, and we are going to stop citizenship testing programs, does that not concern the Members? Does that not tell them that she did not win by 900 votes, as the gentlewoman from Connecticut [Ms. DELAURO] keeps talking about?

□ 2315

No; we have already identified half of those 900 are corroborated that they are false votes.

Mr. Dornan's request is not without precedence. We can go back to Supreme Court decisions. We can go back to McCloskey and McIntyre in the 99th Congress. We can back to Roush versus Chambers in the 87th Congress in the first session. And we can on and on with cases where we have the right and the House committee has the complete ability to order a recount in this congressional election if they want to.

This country prides itself on the fact that we are a democracy and we abide by the axiom, one man, one vote. However, I would like to quote a well known philosopher. This philosopher said it correctly: It is not the voting that is democracy, it is the counting.

Mr. GEJDENSON. The gentleman seemed to have placed great faith in the administration when they set aside Hermandad's activities but somehow does not trust the administration everywhere else.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, I would just like to say that, LORETTA, the seat is yours and we are going to do everything possible to make sure that justice is done in your case.

Let me just share with everybody that this is not the first time that someone of Hispanic descent has been barred from the House of Representatives. About 9 months ago, I came here with my daughter and with my niece, and I waited in line in the main entrance to the Capitol of the United States. And as I walked through that line to come into this House, a security guard from the U.S. Capitol said to me, ''You cannot come in here.''

When I produced an ID, she said it was false. When I told her I was a Member of Congress, she said that I was crazy and that I was ludicrous. And then I said, ''Ma'am, you really have a problem.'' And her response to me was, ''No. The only problem we have is you and your people. Why do you not go back where you came from?'' That was said to me as I entered in a very well published case right here. So, LORETTA, it is nothing new. It is nothing new.

But do you know something everybody said: She is not fit to serve the House of Representatives and the people of this Nation, given her actions. Do you know what my answer was? What can you expect from her? What can you expect from her when she sees Members of Congress each and every day on the TV set accuse those immigrants of coming across the border in hordes to destroy this Nation? When she sees on TV Presidential candidates with a rifle in their arms campaigning in Arizona and saying, ''This is what we have for you, Jose,'' and then sees the Republican Party seat them at their convention in San Diego? What can you expect from a security guard when she sees Members of Congress come here and say, those seats should be invalidated that Latinos and African Americans were elected to and that we should challenge them in court? What do you think she expects when she sees a welfare reform bill come before this Congress which says, let us not give them any help?

LORETTA, you won. And in this Congress, you will prevail.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA], a member of the committee.

Mr. MICA. Mr. Speaker, I rise in support of this resolution. In fact, this resolution is not offered in support or in opposition to the gentlewoman from California [Ms. SANCHEZ] who has been seated from California's 46th District. Nor is it offered in support or opposition to Mr. Dornan, who is contesting the election in California's 46th District. This resolution, in fact, is about the very heart and the essence of the democratic electoral process.

We have heard it said that the United States Constitution, Article I, section 5, states that the House shall be the judge of its Members and their election. The Committee on House Oversight, on which I am privileged to serve, is charged with seeking the facts relating to Members being seated in a contested election.

This resolution is not about the gentlewoman from California [Ms. SANCHEZ]. This resolution is not about Mr. Dornan. This resolution is not about a Republican or a Democrat serving in California's 46th District. This resolution is about determining whether or not the election in California's 46th District was conducted in a lawful and appropriate manner. This resolution is critical to every Member of this Congress and to the American people because this resolution seeks only to determine the facts as to who lawfully cast their ballots in a contested election.

This resolution deserves the support of every Member of this Congress to maintain the process that is outlined in our Constitution and to ensure the very integrity of the system of fair and honest representative government. I ask each and every Member to come down here and vote for this fair, honest, justice-seeking resolution.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I grew up in a country that said Hispanic Americans could die for their country but not be buried in a public cemetery. I grew up in a community where Hispanic schoolchildren were punished for speaking their mother's native language on school grounds. I grew up in a neighborhood where a distinguished American veteran, a physician, was turned against and fought simply because he was Hispanic. Thank God, Mr. Speaker, those wrongs were righted years ago.

That is exactly why tonight I will be not a part of harassing an Hispanic American who was duly elected to this Congress and the thousands of Hispanic Americans who duly voted for her.

I must wonder, where are the philosophical conservatives tonight? Where are the Republicans who say we should limit the powers of government? Where are the Republicans who want to restrict the law enforcement powers of the ATF and the FBI? Where are the Republicans who say they believe in private property rights? Where are the Republicans who say they cherish our constitutional protections against unreasonable search and seizure by the Government?

How can those who believe in limited government want to give Robert Dornan, a private citizen, the right to subpoena American citizens' private property? If anyone should be offended by Mr. Dornan's subpoena power, it should be true philosophical conservatives.

Enough is enough. It is time to end the persecution of Hispanics now, right here in this House tonight.

Mr. THOMAS. Mr. Speaker, I yield myself 1 minute.

This resolution is to make sure that when those people become citizens and cast a vote, it is a vote that counts.

The problem is, there are some people out there preying on these people, misrepresenting the law, and getting them to register so that they commit, unwittingly, a felony. Your feelings should be directed to those people who are preying on these innocent people. The innocent people are the ones who wind up committing the felony, but they are the victims. It is the organizations such as Hermandad that should be punished.

All this resolution seeks to do is to get the Department of Justice to make sure that those very people you talked about, I tell the gentleman from Texas, when they become citizens can cast a vote and have the confidence that that vote will not be diluted by fraud or illegality. That is what we are doing.

Mr. GEJDENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, we are approaching a resolution right now that Congress cannot force the Justice Department to prosecute. The committee has already received all the relevant evidence that Hermandad ever possessed. They have got the information. So why are we here tonight?

It is 10 months after the election. Who are we, this body? We should be doing the people's business. We should be doing campaign finance reform. We should be finishing the appropriations bills. Instead, we are here at 11:30 tonight talking about a woman whom I know well. I know LORETTA SANCHEZ. I know her so well, I saw her come to Congress as a proud woman to represent her district, to represent her constituents, to do the job she was elected to do.

We are spending 10 months saying this wonderful young woman cannot be allowed to do what she was sent here to do. Let us end it. Let us say tonight, let her serve. We will have another election in November, the following November. Let it happen. We are the body of the people. We represent the people. Let LORETTA serve.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me the time.

I would like to make the comment that I have been stopped several times by the guards questioning whether I was a Member of Congress. I may not look like a Member of Congress, the Scotch-Irish descent, but I have been stopped many times questioning whether I was a Member of Congress.

We are debating here tonight. It is a positive thing that we debate the issues. Oliver Wendell Holmes, a physician, a jurist, and a poet, said that the Constitution was made for people with differing opinions. We are seeing that to an extent tonight.

But this is a Nation of laws, not of rhetoric. This is a Nation where we have one man, one vote. And we are committed to that.

A World War II veteran who is committed to his country and always optimistic and positive about what America stood for says our lives are made up of five things: Humility, I ask that our colleagues tonight look at who has humility; commitment to justice; compassion to people; faith in the American people; and faith that people will be responsible, will be decent, will be honest, and allow themselves to have dignity.

We must allow the process, in my judgment, to work to make sure that those people that vote vote honestly, have dignity. The last word he used was love, not for self-serving reasons but love for the things that America, which is still a great country, stands for.

I encourage Members to vote for this resolution because it means that we are committed to justice in America, one man, one vote, and we want people to have responsibility to do the right thing. And if we give them that responsibility and show them what we stand for, there will be dignity for each and every citizen that their vote counts.

Mr. GEJDENSON. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Connecticut [Mr. GEJDENSON] has 7½ minutes remaining, and the gentleman from California [Mr. THOMAS] has 7 minutes remaining.

Mr. GEJDENSON. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, the central problem here is that this so-called investigation has been improper from its inception.

Normally a claimant seeking to invalidate an election has the burden of proof of fraud or irregularities. He should look at the records of people who vote, the records from the board of elections, from birth records, from naturalization records, and show his evidence.

Instead, the claimant has been given individual subpoena power, has used that power irresponsibly and to the deprivation of the constitutional rights of others. He has issued broad-based, fishing-expedition subpoenas, some struck down, some not yet.

□ 2330

Hermandad got such a broad subpoena which invaded the constitutional rights of many people. The District Court said the subpoena was okay. Hermandad is appealing that decision, but 8 days after the district court decision, while it is appealing that decision, they come up with this bill of attainder here which we are asked to pass, demanding criminal prosecution of this private group which has no role or should have no role in this at all.

Obviously, it is entirely politically motivated, as this entire process has been, and the motivation is to short-circuit the constitutional process and the constitutional rights of the individuals involved and should be voted down.

Mr. THOMAS. Mr. Speaker, I yield myself 1 minute.

I tell the gentleman from New York if he wants to know who gave Bob Dornan the right to subpoena, the CONGRESSIONAL RECORD, October 20th, 1969, on rollcall number 235, the yeas 311, nays 12, the legislation that was passed overwhelmingly on a bipartisan vote supported and defended by the court most recently and the House.

The fact that no one has used it, except for this particular time, does not mean it has not been there from the beginning. The point needs to be made that it is the statute that affords it. That is where it comes from. It is part of the Contested Election Act and it was passed overwhelmingly bipartisan.

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

Mr. GEJDENSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MARTINEZ].

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

Mr. MARTINEZ. Mr. Speaker, I hear over and over again that we are concerned about the integrity of our election process, and I agree with that, not only for the 46th Congressional District but for all over the United States.

This is not the only place where voter fraud has occurred. But I hear interjected into the debate the reference to the number of fraudulent votes in the 46th District. Then our friend from Texas gets up and states that the Hermandad is the crookedest organization around and guilty of all kinds of wrongdoing.

The problem I have with that is an investigating committee trying to investigate someone who has already made up his mind lends itself to the idea that since they have already made up their mind, their investigation is going to conclude with the conclusions they have already made.

Let me say in the same breath that the gentleman speaks about the high level of debate that began this debate. He rushes in to chastise one of our Members for pulling a race card. What greater race card was there pulled when on that side of the aisle they chose as their closing speaker someone of Hispanic descent?

So I ask the question, is this about voter fraud, is it about the gentlewoman from California's election, or is it is about intimidating Latino voters? I think it is the latter.

Mr. GEJDENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I have been around this for a long, long while, and I can remember when we kept people from voting because we had something called the poll tax. And most of us could not afford it, especially sharecroppers. And we were sharecroppers, and some of our black neighbors could not afford to vote.

We have talked about numbers here. My good friend from California said what we want to make sure is that every vote counts. Votes are not counted in the District of California. The gentlewoman from California is being harassed. And if we took the 300 votes or 400 votes, throw them out, she still won a majority. She is still the winner.

In politics, that is all that matters, is getting the majority of the vote. The gentlewoman is being denied the vote, in my opinion, simply because she beat one of the real radical exhibitionists that has ever been in this House. Some Members do not like it.

As for the gentleman that said it was the Democrats, he was the one that sent out a press release accusing me of missing votes when my sister-in-law had died and I was not even here. So I just wanted to make that clear.

This is a charade that should not be taking place. It does not become this House and it does not become us as the most respected governing body on the face of the earth, and we should be ashamed of our actions that are taking place today.

Mr. THOMAS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. NEY], not only a member of the committee but a member of the task force, the vice chairman of the Committee on House Oversight.

Mr. NEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Tonight I think it would become us, Mr. Speaker, since we are talking about what becomes this Chamber, it would become us to stick to the facts. The organization Hermandad Mexicana Nacional has, for nearly 5 months, refused to comply with the subpoena issued by a United States District Court judge. The Department of Justice says the matter is still under review, despite repeated letters from the Committee on House Oversight. That is a fact. The Department of Justice's failure to act has encouraged groups to ignore subpoenas, delaying the investigations.

This is no picnic for us, as any Member on either of the side of the aisle on this committee knows very well of this delay. It is not something we enjoy, it is not something we like, it is not something that has a political furtherance.

The other statement that is made that needs to be addressed is that the other side argues that most information requested in the subpoena to Hermandad has already been turned over. That is simply not true. Not all the information has been turned over. And if it had been, they would not be fighting so hard. Another thing is, they had all summer to file, but they did not. They filed in August because they wanted to delay the entire process.

It has been a great interesting night. First, Bob Dornan has no credibility. Bob Dornan has said things on the floor people do not like from that side of the aisle, but all of a sudden Bob Dornan is quoted tonight because he is now factual in what he says in the newspaper, because it is convenient to quote him tonight.

This is not about Bob Dornan, this is not about the gentlewoman from California [Ms. SANCHEZ], this is about the election process.

Politics? Here is the DCCC press release starting in February. Phone calls into districts trying to stop this, a legitimate inquiry of the U.S. House. There is a little politics there.

But I think we have seen it all tonight. What is in a name? Did Shakespeare say that or was it Hallmark? I am not sure. Somebody says that. What is in a name? Well, tonight it is in the Latino name. Tonight it is in the Latino name. Because all of a sudden, if one does not have a Latino name, something is wrong tonight.

Let me tell my colleagues something. We have Latino relatives. I do, in Fontana, California. The gentleman from Michigan [Mr. EHLERS] does. We have Latino relatives. My colleagues know it is not true that there is a bias to Latinos.

The words tonight, persecution, insulting, embarrassing, playing the race card, all the things that were raised tonight that my colleagues know are not true. My colleagues all know it. They know that is not accurate. They know it is not true. They know that is not the feelings we have.

We should stick to the facts, because what is not becoming of this Chamber is to use those scare tactics to Americans, Mr. Speaker, across this country. That does not become the energetic give and take of public debate. What becomes us is to stick to the facts, and if we do that, we will not have so much disgrace on the floor tonight by throwing out side innuendo that my colleagues know is simply not true. It is not fair to the American people and it is not fair to any Member of any gender, of any ethnic background on the floor tonight.

Mr. GEJDENSON. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise in opposition to this ill-conceived resolution. I am not an expert on the legal dispute over Mr. Dornan's novel use of the power of subpoena. I do not know all of the facts surrounding the court cases that have come as a result of these subpoenas, but I have served in this House since 1977 and I have some sense of when it is appropriate for this House to speak to the judicial system.

Mr. Speaker, as far as I can determine, never in the 208-year history of this House has the majority decided to interfere so directly in a criminal matter by demanding that specific charges be brought against the particular party. In the best of circumstance, what is being done tonight would be a bad precedent that would only lead to mischief, but it is clear that the interference that is called for tonight in our judicial system is based on partisan political motives. And when that day comes, it is a sad day for this House of Representatives.

Make no mistake about it, the purpose is not law enforcement tonight, the purpose is to harass and intimidate. That is what this whole investigation has been about, arming Bob Dornan with subpoena authority. Unprecedented in the work of this committee, invading the privacy of thousands of Hispanic-Americans, all because a hardworking Hispanic businesswoman had the audacity to upset Bob Dornan in the 46th District of California. And Mr. Speaker, it was not even a close election.

Now we read in the newspapers that there is an effort, perhaps, to tell Mr. Dornan that the House is going to declare the seat vacant and call for a new election. I can only assume that these reports are just rumors and that they are wrong.

The gentlewoman from California [Ms. SANCHEZ] won this election by almost a thousand votes. If her election can be overturned on suspicion, with no facts, none of the facts that were brought have been found to be true, but on suspicion that there were noncitizens who voted, then who is next? Whenever there is a vote of under a thousand, do we go in and ask the INS to pull up all the records of new Americans in a district? Who is next? Which House race will we go into next time?

My colleagues, if this procedure goes on, if there is a move to vacate this election, this is no longer the people's House, it is the Republican Party's House, and I do not think any of us want any part of it.

Defeat this resolution and send this contest where it belongs. Dismiss it.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from North Carolina said in politics all that matters is getting the most votes. I personally experienced that in a contested election in the Indiana 8th, because the votes in the Indiana 8th were counted not by any State.

I participated in a contested election contest in which the Democrats set the rules. Those rules did not exist in any State. They were made up. And then when, in following those rules they made up, Democrats were not going to win, they quit counting.

□ 2345

So I guess in politics, for some people all that matters is getting the most votes. But with this new majority, it is going to be determined by legal votes.

There has been some argument that we need to do some campaign finance reform. I will tell my colleagues, the vote tonight is the first vote on campaign finance reform, because I think fundamentally we must start with fundamental reform.

Far more important than the dollars spent in campaigns is who legally gets to vote; and, in this system, only citizens are supposed to legally vote. Let us start by enforcing that fact, and then we will look at other campaign changes.

Tonight, a vote for this resolution is a vote to uphold the law. Democracy works when it operates under the law. A lot of things have been said here. But I want Members, as they vote on this resolution, trying to get the Department of Justice to carry out the law, to remember that it is irrefutable that the question is not ''Did fraud occur in the 46th District of California,'' the question is ''How much?''

That has been the task of the task force. We have been stonewalled by people. People have refused to supply information. We have had to subpoena the Immigration and Naturalization Service. But I can assure my colleagues, no amount of intimidation, no amount of throwing around false charges of racism, no attempt to muddy the waters and obscor our purpose of determining how many legal votes were cast in that election, will deter us from making sure that every honest vote that was cast in that election gets its full, accountability, undiluted by fraudulent votes. That is our job, and we will do it.

I ask the House of Representatives tonight to assist us in asking, or, if you will, demanding that the Department of Justice enforce the law and make these people provide us with the information that will let us get to the bottom of how many fraudulent votes were cast in this particular district so that we can determine the true winner in California's 46th. I ask for a vote on the resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in disgust with the way a former member is trying to manipulate the House of the people to create turmoil, to manipulate the election process and to spend tax payer monies—now more than $300,000 and counting—for nothing more than the purpose of stealing a seat out from under a duly elected Member, LORETTA SANCHEZ.

Bob Dornan has come to the floor of the House and shown himself not to be worthy of being allowed to appear on the floor as a former Member of the House.

He is trying to intimidate the voters of California's 46th Congressional District, the media, the INS, and now the Congress. He wants Congress to try to intimidate the U.S. attorney to file criminal charges against a political enemy of his. That's the meaning of this resolution and that's what he wants us to do.

Mr. Speaker, there has been absolutely no fraud found in this case and there has not been one shred of evidence that this renegade former member has been able to produce that illegal aliens have influenced the outcome of his defeat. He is defying the 28-year history of the Federal Contested Election Act and is using Republicans to carry on a crusade to get his seat back.

He needs to get out of denial that he lost an election and the people of Orange County have spoken. This is under-handed politics of the worst kind. This is nothing more than intimidation.

Mr. Speaker, I urge this distinguished body to end the saga of this misguided investigation. The people of California have legally ended their relationship with him—he embarrassed them until they had enough and now we should say we have had enough of his outrageous tactics and put an end to it once and for all. I urge my colleagues to vote against this travesty as they voted to show Mr. Dornan to the door of the House on one occasion and we should do it again today.

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

The SPEAKER pro tempore (Mr. GILLMOR). All time for debate has expired.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] will state his parliamentary inquiry.

Mr. HEFNER. Mr. Speaker, am I entitled to raise a point of personal privilege since the gentleman from California [Mr. THOMAS] mentioned my name and misquoted me?

The SPEAKER pro tempore. That is not in order as a response during debate.

The resolution is considered read for amendment.

Pursuant to House Resolution 253, the previous question is ordered on the resolution, as amended, and on the preamble.

The question is on the resolution, as amended.

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

Mr. THOMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. A quorum is present.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 219, nays 203, answered ''present'' 1, not voting 11, as follows:

[Roll No. 478]

YEAS—219

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver

Ortiz	Sabo	Tauscher
Owens	Sanders	Taylor (MS)
Pallone	Sandlin	Thompson
Pascrell	Sawyer	Thurman
Pastor	Scott	Tierney
Payne	Serrano	Torres
Pelosi	Sherman	Towns
Peterson (MN)	Sisisky	Turner
Pickett	Skaggs	Velazquez
Pomeroy	Skelton	Vento
Poshard	Slaughter	Visclosky
Price (NC)	Smith, Adam	Waters
Rahall	Snyder	Watt (NC)
Rangel	Spratt	Waxman
Reyes	Stabenow	Wexler
Rivers	Stark	Weygand
Rodriguez	Stenholm	Wise
Roemer	Stokes	Woolsey
Rothman	Strickland	Wynn
Roybal-Allard	Stupak	
Rush	Tanner	

ANSWERED ''PRESENT''—1

Sanchez

NOT VOTING—11

Gonzalez	Roukema	Yates
Hansen	Schiff	Young (AK)
Houghton	Schumer	Young (FL)
Oxley	Smith (OR)	

□ 0005

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. LEWIS of Georgia. Mr. Speaker, I asked for this time because I noticed that the majority leader, the gentleman from Texas [Mr. ARMEY], is on the floor of the House, and I would like to know something about the schedule for the rest of tonight and tomorrow.

Mr. Speaker, tomorrow is the beginning of a high holiday for many of our Members.

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

Mr. LEWIS of Georgia. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, we are about to do a motion to instruct offered by the gentleman from Texas [Mr. DOGGETT]. The gentleman from Kentucky [Mr. WHITFIELD] is very much interested in this, as are other Members, and we should expect that we should have a discussion of this matter and a vote, another vote, before we complete our evening's business.

We will convene the House at 10 a.m. tomorrow morning, we will move as quickly as we can to a consideration of the rule on national monuments, and then again we will move as quickly as we can to consideration of national monuments. We should then have completed the legislative business we will have planned for tomorrow, and we should be in a position for our Members who are anxious about being home for the observation of holidays before the sun goes down tomorrow evening to do so, except that we still have 14 votes that were ordered on the Suspension Calendar, and should those votes be in fact required to be taken, it would work, I would guess, some hardship on all the Members who might have travel plans.

I would remind the House that it has been on the schedule of the House for some time that we would complete business by 3 o'clock tomorrow. I have been implored by many, many Members, and I think for a very good reason, to try to move that up. I will have done everything I can do by trying to complete as much work as possible tonight in order for that to be moved up to 12:15.

It would be, I think, a consideration that might be granted to those Members who have this serious religious concern that we all want to respect for those people that had requested votes ordered on the suspension vote to reconsider the extent to which they truly indeed need those orders and might want to vacate that request, and that would be, I would think, a much appreciated consideration given to Members by those who would be in a position to do so. But we obviously cannot deny a Member his or her right to insist on ordering those votes on those suspensions.

And I notice my friend from Georgia, and I will assure him that I am as committed as I can be to persuading and encouraging everybody to do what we can to facilitate the need that many Members have to transport themselves and their families with as much dispatch as possible.

Mr. LEWIS of Georgia. Mr. Speaker, I would like to yield to my colleague from Texas [Mr. EDWARDS] for further inquiry of the majority leader.

Mr. EDWARDS. Would the distinguished majority leader be willing to let me address a question to him? Does he feel it is fair to require Members of this body to choose between their religious faith and their responsibility?

I believe I have a right to ask this. I think this is a very serious issue, Mr. Speaker.

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, I will respond to the gentleman.

The SPEAKER. The time of the gentleman from Georgia [Mr. LEWIS] has expired.

The Chair recognizes the gentleman from Texas [Mr. DOGGETT] to offer a privileged motion.

MOTION TO INSTRUCT CONFEREES ON H.R. 1757, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999, AND EUROPEAN SECURITY ACT OF 1997

Mr. DOGGETT. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. DOGGETT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 1757, be instructed to reject section 1601 of the Senate amendment, which provides for payment of all private claims against the Iraqi Government before those of U.S. veterans and the U.S. Government (i.e., U.S. taxpayers).

MOTION TO ADJOURN

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

The SPEAKER. A motion to adjourn is in order.

Mr. SCARBOROUGH. Mr. Speaker, I had asked earlier for a question. We can do a motion to adjourn, if I can ask the gentleman from Texas a question?

The SPEAKER. A motion to adjourn is not debatable, and the gentleman was not recognized prior to this time.

□ 0015

Does the gentleman from Florida insist on his motion to adjourn?

Mr. SCARBOROUGH. Yes, Mr. Speaker.

Mr. DOGGETT. Mr. Speaker, has the motion been reduced to writing?

The SPEAKER. Yes. The question is on the motion to adjourn offered by the gentleman from Florida [Mr. SCARBOROUGH].

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

Mr. DOGGETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 206, nays 183, not voting 44, as follows:

[Roll No. 479]

YEAS—206

Aderholt	Cunningham	Horn
Archer	Davis (VA)	Hostettler
Armey	Deal	Hulshof
Bachus	DeLay	Hunter
Baesler	Diaz-Balart	Hutchinson
Ballenger	Dickey	Hyde
Barr	Dixon	Inglis
Barrett (NE)	Doolittle	Istook
Bartlett	Dreier	Jenkins
Barton	Duncan	Johnson (CT)
Bass	Ehlers	Johnson, Sam
Bateman	Ehrlich	Jones
Bereuter	English	Kasich
Bilbray	Ensign	Kelly
Bilirakis	Everett	Kim
Bliley	Ewing	King (NY)
Blunt	Fawell	Kingston
Boehlert	Flake	Klug
Bonilla	Foley	Knollenberg
Bono	Forbes	Kolbe
Brady	Fowler	LaHood
Bryant	Fox	Latham
Burr	Franks (NJ)	LaTourette
Burton	Frelinghuysen	Lazio
Buyer	Gallegly	Leach
Camp	Ganske	Lewis (CA)
Campbell	Gekas	Lewis (KY)
Cannon	Gibbons	Linder
Castle	Gilchrest	Livingston
Chabot	Gillmor	LoBiondo
Chambliss	Goode	Lucas
Chenoweth	Goodlatte	Manzullo
Christensen	Goodling	McCollum
Clyburn	Goss	McCrery
Coble	Graham	McHugh
Coburn	Granger	McIntosh
Collins	Gutknecht	McKeon
Combest	Hastert	Metcalf
Condit	Hastings (WA)	Mica
Conyers	Hayworth	Miller (FL)
Cook	Herger	Moran (KS)
Cooksey	Hill	Morella
Cox	Hilleary	Myrick
Crapo	Hobson	Nethercutt
Cubin	Hoekstra	Ney

Northup
Norwood
Nussle
Pappas
Parker
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf

NAYS—183

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Lampson
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Whitfield
Wise
Woolsey
Wynn

NOT VOTING—44

Baker
Berman
Boehner
Borski
Boucher
Bunning
Callahan
Calvert
Canady
Clay
Crane
Dicks
Dooley
Dunn
Emerson
Foglietta
Gonzalez
Greenwood
Hall (OH)
Hansen
Hefley
Houghton
LaFalce
Lantos
Largent
Manton
Markey
Martinez
McDade
Moakley
Murtha
Neumann
Oxley
Paul
Pomeroy
Roukema
Schiff
Schumer
Shuster
Smith (OR)
Stokes
Yates
Young (AK)
Young (FL)

☐ 0030

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

So the motion to adjourn was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 12 o'clock and 34 minutes a.m.) the House adjourned until today, Wednesday, October 1, 1997, at 10 a.m.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 459. An act to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes; to the Committee on Resources.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2203. An act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

H.J. Res. 94. Joint resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1211. An act to provide permanent authority for the administration of au pair programs.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 1420. An act to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

H.J. Res. 94. Joint resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

OMITTED FROM THE CONGRESSIONAL RECORD OF MONDAY, SEPTEMBER 22, 1997

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1198. An act to amend the Immigration and Nationality act to provide permanent authority for entry into the United States of certain religious workers; to the Committee on the Judiciary.

EXECUTIVE COMMUNICATIONS, ETC.

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

5258. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Reclassification; Nevada-Clark County Nonattainment Area; Carbon Monoxide [NV029–0003A FRL–5900–1] received September 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5259. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans (SIP); Louisiana; Control of Volatile Organic Compound (VOC) Emissions; Reasonable Available Control Technology (RACT) Catch-Ups; Major Source Definition Corrections [LA–8–1–7346; FRL–5899–4] received September 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5260. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band; Implementation of Sections 3(n) and 322 of the Communications Act—Regulatory Treatment of Mobile Services; Implementation of Section 309(j) of the Communications Act—Competitive Bidding [PR Docket No. 93–144, RM–8117, RM–8030, RM–8029; GN Docket No. 93–252; PP Docket No. 93–253; FCC 97–224] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5261. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Lake City, Minnesota) [MM Docket No. 97–133, RM–9086] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5262. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Temple and Taylor, Texas) [MM Docket No. 96–219, RM–8881] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5263. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Slidell and Kenner, Louisiana) [MM Docket No. 97–102, RM–8969] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5264. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dickson and Kingston Springs, Tennessee) [MM Docket No. 96–265, RM–8913] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5265. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band; Implementation of Sections 3(n) and 322 of the Communications Act—Regulatory Treatment of Mobile Services; Implementation of Section 309(j) of the Communications Act—Competitive Bidding [PR Docket No. 93–144, RM–8117, RM–8030; RM–8029; GN Docket No. 93–252; PP Docket No. 93–253; FCC 97–223] received September 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5266. A letter from the Acting Comptroller General, General Accounting Office, transmitting a monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

5267. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New Jersey (National Oceanic and Atmospheric Administration) [Docket No. 961210346–7035–02; I.D. 092297B] received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5268. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Angling Category [I.D. 091897A] received September 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5269. A letter from the Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule— Dean John A. Knauss Marine Policy Fellowship National Sea Grant College Federal Fellows Program [Docket No. 970624154–7154–01] (RIN: 0648–ZA30) received September 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5270. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials Regulations; Editorial Corrections and Clarifications (Research and Special Programs Administration) [Docket No. RSPA–97–2910 (HM–189N)] (RIN: 2137–AD09) received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5271. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–213–AD; Amdt. 39–10144; AD 97–20–06] (RIN: 2120–AA64) received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5272. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300–600 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–170–AD; Amdt. 39–10145; AD 97–20–07] (RIN: 2120–AA64) received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5273. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CT58 Series Turboshaft Engines (Federal Aviation Administration) [Docket No. 97–ANE–15; Amdt. 39–10137; AD 97–19–17] (RIN: 2120–AA64) received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5274. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–100, -200, and -300 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–63–AD; Amdt. 39–10147; AD 97–20–10] (RIN: 2120–AA64) received September 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5275. A letter from the Chair, Water Rights Task Force, transmitting the report of the Federal Water Rights Task Force, pursuant to Public Law 104—127, section 389(d)(3); jointly to the Committees on Agriculture and Resources.

5276. A letter from the Inspector General, Railroad Retirement Board, transmitting the budget request for the Office of Inspector General, Railroad Retirement Board, for fiscal year 1999, pursuant to 45 U.S.C. 231f; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

5277. A letter from the Chairman, Railroad Retirement Board, transmitting the Chairman's comments regarding the budget level proposed by OMB for fiscal year 1999; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

5278. A letter from the Labor and Management Members, Railroad Retirement Board, transmitting the Board's budget request for fiscal year 1999, pursuant to 45 U.S.C. 231f; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1839. A bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles; with an amendment (Rept. 105–285, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Report on the revised subdivision of budget totals for fiscal year 1998 (Rept. 105–286). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Judiciary discharged from further consideration H.R. 1839. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 10. Referral to the Committee on Commerce extended for a period ending not later than October 31, 1997.

H.R. 1839. Referral to the Committee on the Judiciary extended for a period ending not later than September 30, 1997.

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. SMITH of Texas:

H.R. 2578. A bill to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and to provide for the collection of data with respect to the number of non-immigrants who remain in the United States after the expiration of the period of stay authorized by the Attorney General; to the Committee on the Judiciary.

By Mr. TALENT (for himself, Mr. DOOLEY of California, Mrs. EMERSON, Mr. BISHOP, Ms. PRYCE of Ohio, Mr. STENHOLM, Mrs. FOWLER, and Mr. GOODE):

H.R. 2579. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. FOWLER (for herself, Mr. COX of California, Mr. GIBBONS, Mr. GILMAN, Mr. HUNTER, Mr. HYDE, Mr. SAM JOHNSON, Mr. MCINTOSH, Mr. ROHRABACHER, Mr. ROYCE, Mr. SHADEGG, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. SPENCE, Mr. WOLF, and Ms. PELOSI):

H.R. 2580. A bill to ensure that commercial activities of the People's Liberation Army of China or any Communist Chinese military company in the United States are monitored and are subject to the authorities under the International Emergency Economic Powers Act; to the Committee on International Relations.

By Mr. CAMPBELL:

H.R. 2581. A bill to protect the privacy of individuals with respect to the Social Security number; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2582. A bill to amend title 10 and title 14, United States Code, and the Merchant Marine Act, 1936, to increase the period of the service obligation for graduates of the military service academies, the Coast Guard Academy, and the United States Merchant Marine Academy; to the Committee on National Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUNNINGHAM:

H.R. 2583. A bill to amend the Tariff Act of 1930 with respect to the marking of finished golf clubs and golf club components; to the Committee on Ways and Means.

By Ms. DELAURO (for herself, Mr. FROST, Mr. MCGOVERN, Mr. HINOJOSA, Mr. SCHUMER, Mr. BALDACCI, Mr. FRANK of Massachusetts, Mrs. THURMAN, Mr. MANTON, Mr. OLVER, and Mr. DELLUMS):

H.R. 2584. A bill to provide a Federal response to fraud in connection with the provision of or receipt of payment for health care services, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on 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. LOWEY (for herself and Mr. OBERSTAR):

H.R. 2585. A bill to provide that service of the members of the group known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of any law administered by the Department of Veterans Affairs; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINGE (for himself, Mr. CONDIT, Mr. NEUMANN, Mr. FROST, Mr. TANNER, and Mr. SANDLIN):

H.R. 2586. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget.

By Mrs. MYRICK:

H.R. 2587. A bill to require the Secretary of the Treasury to cause to be conducted an independent audit of the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. REYES (for himself, Mr. HUNTER, Mr. BECERRA, Mr. FROST, Mr. HINOJOSA, Mr. GREEN, Mr. BONO, Mr. TORRES, Mr. PASTOR, Mr. BOSWELL, Mr. EDWARDS, and Mr. UNDERWOOD):

H.R. 2588. A bill to establish the Office of Enforcement and Border Affairs within the Department of Justice; to the Committee on the Judiciary.

By Ms. CHRISTIAN-GREEN (for herself, Mr. DELLUMS, Ms. KILPATRICK, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. FILNER, Mr. SNYDER, Mr. WATTS of Oklahoma, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. FROST, and Mr. DIXON):

H. Con. Res. 161. Concurrent resolution recognizing the 150th anniversary of the emancipation of African slaves in the Danish West Indies, now the United States Virgin Islands; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H. Con. Res. 162. Concurrent resolution relating to the recent developments toward normalization of relations between India and Pakistan; to the Committee on International Relations.

ADDITIONAL SPONSORS

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

H.R. 12: Mrs. MORELLA.

H.R. 59: Mr. KASICH and Mr. CHAMBLISS.

H.R. 135: Mr. CONDIT, Mr. VENTO,, Mr. ORTIZ, and Mr. SOLOMON.

H.R. 145: Mr. BENTSEN and Mr. DINGELL.

H.R. 211: Mr. THOMPSON.

H.R. 292: Mr. COBURN.

H.R. 450: Mr. NUSSLE.

H.R. 598: Mr. CANADY of Florida.

H.R. 600: Ms. CHRISTIAN-GREEN.

H.R. 705: Mr. STEARNS.

H.R. 715: Mr. JACKSON.

H.R. 716: Mr. CRAPO.

H.R. 754: Mrs. MCCARTHY of New York.

H.R. 795: Mr. GUTIERREZ.

H.R. 815: Mr. ENGEL, Mrs. LOWEY, Mr. PAYNE, and Mr. PORTMAN.

H.R. 875: Mr. GREENWOOD and Ms. CARSON.

H.R. 915: Mr. KUCINICH, Mr. REYES, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. STARK, Mrs. LOWEY, Mr. HORN, Mr. KENNEDY of Massachusetts, Ms. SANCHEZ, Mr. BROWN of California, Mr. POMBO, Ms. DELAURO, Mr. VENTO, Ms. CARSON, Mr. DELAHUNT, Mr. LAMPSON, Mr. FARR of California, Mr. NEAL of Massachusetts, Mr. KIND of Wisconsin, Mr. SHERMAN, Mr. WOLF, and Mr. LOBIONDO.

H.R. 950: Ms. PELOSI.

H.R. 965: Mr. HOEKSTRA and Mr. NORWOOD.

H.R. 972: Mr. SALMON.

H.R. 1114: Mr. BOSWELL, Mr. BLUNT, and Mr. KASICH.

H.R. 1126: Mr. PALLONE.

H.R. 1129: Mr. BARCIA of Michigan.

H.R. 1161: Mr. BLAGOJEVICH.

H.R. 1227: Mr. DUNCAN.

H.R. 1231: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1356: Mr. CUNNINGHAM.

H.R. 1373: Mr. FATTAH.

H.R. 1500: Mr. SMITH of New Jersey and Mrs. MORELLA.

H.R. 1507: Mr. BACHUS and Mr. FATTAH.

H.R. 1608: Mrs. MCCARTHY of New York, Ms. MILLENDER-MCDONALD, Mr. LOBIONDO, Mrs. MINK of Hawaii, Mr. COOK, and Mrs. MYRICK.

H.R. 1689: Mr. LINDER.

H.R. 1715: Mr. PETERSON of Pennsylvania.

H.R. 1727: Mr. RUSH.

H.R. 1737: Mr. TOWNS, Mrs. KENNELLY of Connecticut, Mr. NADLER, and Mrs. TAUSCHER.

H.R. 1766: Mr. CAMP, Mr. COOK, Mr. CONDIT, Mr. BOEHLERT, Mr. ABERCROMBIE, Mr. TIAHRT, Mr. BILIRAKIS, and Ms. WOOLSEY.

H.R. 1839: Mr. BARRETT of Wisconsin, Mr. ADERHOLT, Mr. CUNNINGHAM, Mr. SKELTON, Mr. MASCARA, MS. KILPATRICK, Mr. MICA, and Mr. BALDACCI.

H.R. 1864: Mr. SALMON.

H.R. 1984: Mr. HILLEARY, Mr. PORTER, and Mr. GALLEGLY.

H.R. 2004: Mr. BISHOP.

H.R. 2023: Mr. GUTIERREZ.

H.R. 2069: Mr. BROWN of Ohio.

H.R. 2110: Mr. DEFAZIO.

H.R. 2116: Mr. SMITH of New Jersey, Mr. FRELINGHUYSEN, and Mr. BISHOP.

H.R. 2121: Mr. LEWIS of Georgia.

H.R. 2122: Mr. ADERHOLT.

H.R. 2140: Mr. FORD.

H.R. 2167: Mr. BOUCHER.

H.R. 2174: Mr. FAZIO of California, Mr. RUSH, Ms. NORTON, Mr. MATSUI, Mr. HINCHEY, Mr. MCDERMOTT, Mr. SCHUMER, Ms. DELAURO, and Mrs. MEEK of Florida.

H.R. 2183: Mr. DUNCAN.

H.R. 2190: Mr. HYDE.

H.R. 2195: Mr. HYDE, TRAFICANT, and Mr. WATTS of Oklahoma.

H.R. 2223: Mr. GRAHAM.

H.R. 2224: Mr. ENGLISH of Pennsylvania, Ms. CARSON, Mr. HASTINGS OF Florida, and Mr. FROST.

H.R. 2231: Ms. DUNN of Washington, Mr. SESSIONS, and Mr. CAMP.

H.R. 2292: Mr. CONDIT, MR. CRANE, Mr. THOMAS, Mr. PETERSON of Minnesota, Mr. SHAW, Mr. HOLDEN, Mr. BUNNING of Kentucky, Mr. HOUGHTON, Mr. DOOLEY of California, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. NUSSLE, Mr. SAM JOHNSON, Ms. DUNN of Washington, Mr. COLLINS, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. CHRISTENSEN, Mr. WATKINS, Mr. HAYWORTH, Mr. WELLER, Mr. HULSHOF, Mr. ARMEY, Mr. STRICKLAND, Mr. KASICH, Mr. KOLBE, Mr. BOEHNER, Mr. CHABOT, Mr. PARKER, Mr. LAZIO of New York, Mr. PICKERING, Mr. GOSS, Mr. WATTS of Oklahoma, Mrs. KELLY, Mr. GILLMOR, Mr. REGULA, Mr. PETRI, Ms. PRYCE of Ohio, Mr. DREIER, Mr. HOBSON, Mr. HASTERT, Mr. CRAPO, Mr. HOSTETTLER, Mr. NETHERCUTT, Mr. EVERETT, Mr. BARCIA of Michigan, Mr. FRANKS of New Jersey, Mrs. CUBIN, Mr. HASTINGS of Washington, Mr. FOX of Pennsylvania, Mr. SUNUNU, MR. NEY, Mr. LATOURETTE, Ms. ESHOO, Mr. DUNCAN, Mr. EWING, Mr. SENSENBRENNER, Mr. SHIMKUS, Mr. BONO, Mr. FROST, and Mr. STEARNS.

H.R. 2379: Mr. BURR of North Carolina, Mr. HEFNER, Mrs. MYRICK, and Mr. ETHERIDGE.

H.R. 2441: Mr. BARRETT of Wisconsin.

H.R. 2450: Mr. WOLF, Mr. STARK, Mrs. CLAYTON, Mr. FILNER, and Mr. PASTOR.

H.R. 2454: Mr. FOX of Pennsylvania, Mr. BOUCHER, and Mr. SANDERS.

H.R. 2456: Mr. HEFLEY, Ms. ROS-LEHTINEN, Mr. BILIRAKIS, and Mr. BARRETT of Nebraska.

H.R. 2457: Mr. FOX of Pennsylvania, Mr. FATTAH, Mr. COSTELLO, Mr. BOUCHER, and Mr. SANDERS.

H.R. 2458: Mr. RADANOVICH.

H.R. 2464: Mr. MCDERMOTT, Mr. YOUNG of Alaska, and Mr. BALDACCI.

H.R. 2469: Mr. HASTERT, Mr. SAWYER, and Mr. CANNON.

H.R. 2479: Mr. GIBBONS.

H.R. 2493: Mr. GALLEGLY.

H.R. 2495: Mr. DOOLEY of California, Mr. GEJDENSON, and Ms. KAPTUR.

H.R. 2509: Mr. EVANS and Mr. MANZULLO.

H.R. 2518: Mr. DEAL of Georgia, Mr. SKEEN, and Mr. GRAHAM.

H.R. 2519: Mr. BROWN of Ohio and Mr. LEWIS of Georgia.

H.R. 2524: Mr. LEWIS of Georgia, Mr. SABO, Mr. TIERNEY, Mr. GEJDENSON, and Mr. SKAGGS.

H.R. 2525: Mr. MCDERMOTT, Ms. MCKINNEY, Mr. FILNER, Mr. JACKSON, Mr. FROST, Mr. DELLUMS, Mr. YATES, Mr. FRANK of Massachusetts, Ms. FURSE, Mr. ACKERMAN, Mr. BERMAN, Mr. STARK, Mrs. MINK of Hawaii, Mr. WAXMAN, Mr. MILLER of California, and Mr. BROWN of California.

H.R. 2554: Mrs. JOHNSON of Connecticut.

H.R. 2560: Mr. DICKEY, Mr. BERMAN, Mr. HILLIARD, Mr. NADLER, Mr. ADAM SMITH of Washington, Mr. MEEHAN, Mr. TOWNS, Ms. LOFGREN, Mr. HUTCHINSON, Mr. REYES, Mr. FROST, Ms. KILPATRICK, Mr. DEFAZIO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Mr. ENGEL, Mr. CUMMINGS, Mr. MATSUI, Mr. CONYERS, Mr. CLAY, Ms. DELAURO, Mr. DELLUMS, Ms. CHRISTIAN-GREEN, Mr. BARCIA of Michigan, Mr. CLYBURN, Mr. WYNN, Ms. WOOLSEY, Mr. JACKSON, Mr. RUSH, Mrs. MINK of Hawaii, Mr. DIXON, and Mr. WATTS of Oklahoma.

H.R. 2563: Mr. HULSHOF.

H.R. 2568: Mr. POSHARD and Mr. UPTON.

H. Con. Res. 55: Mr. MORAN of Virginia.

H. Con. Res. 65: Mr. SHAW.

H. Con. Res. 80: Mr. CAPPS.

H. Con. Res. 106: Mrs. MEEK of Florida, Mr. YATES, Ms. DELAURO, Mr. DEFAZIO, Mrs. MALONEY of New York, and Mrs. JOHNSON of Connecticut.

H. Con. Res. 151: Mr. THOMAS.

H. Con. Res. 158: Mr. BALLENGER.

H. Res. 247: Mr. LEWIS of Georgia and Mr. SNYDER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1171: Mr. MASCARA.

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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

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Senate

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

A bracing word from the Lord calls us to prayer. Through Isaiah He says, ''Woe to those who call evil good and good evil; who put darkness for light and light for darkness; who put bitter for sweet and sweet for bitter. Woe to those who are wise in their own eyes and prudent in their own sight.''—Isaiah 5:20–21.

Let us pray.

Almighty God, we reaffirm the absolutes of Your Commandments and the irreducible mandates of the Bible. We commit ourselves to those principles rather than our own prejudices. Make us moral and spiritual leaders of our culture and not chameleon emulators of the equivocations of our time. Help us to discern Your good and reject the clever distortions of evil. May we be people of the light who dispel the darkness of deceit. Keep us from solicitous sweetness or unforgiving bitterness.

Dear God, bless the women and men of this Senate with the divine wisdom to lead and the greatness to inspire our beloved Nation. Through our Saviour and Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COATS, is recognized.

SCHEDULE

Mr. COATS. Mr. President, this morning the Senate will resume consideration of the Coats amendment No. 1249 to S. 1156, the D.C. appropriations bill. Under the order, there will be 1 hour of debate prior to the cloture vote on the Coats amendment regarding school choice.

Following the 11 a.m. cloture vote, the Senate will continue debating amendments to the D.C. appropriations bill with the hope of finishing action on that bill during today's session. In addition, the Senate will consider the continuing resolution at some point during the session.

As previously ordered, the Senate will recess from 12:30 p.m. to 2:15 p.m. in order for the weekly policy luncheons to meet, and the Senate may also return to consideration of S. 25 regarding the financing of political campaigns or any conference reports that are cleared for Senate action. Therefore, Members can anticipate additional rollcall votes throughout the day.

CONGRATULATIONS TO THE KENNEDY FAMILY

Mr. COATS. Mr. President, I want to take a moment here to congratulate the Senator from Massachusetts for winning a major sailing race this past weekend, and he did not hire a professional crew. He used his sister and son and family and came in first, which is no small feat. The Senator deserves our congratulations for that, and hopefully we can get off to a good debate this morning on vouchers with the Senator feeling so good about winning that race.

Mr. KENNEDY. Mr. President, if the Senator will yield, I thank the Senator very much for his kind comments, once in awhile, it's nice to win something around here.

I thank the Senator for his comments.

Mr. COATS. It was clearly a family affair, Mr. President, and congratulations to the entire Kennedy family for that.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the leadership time is reserved.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1156, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1156) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Coats modified amendment No. 1249, to provide scholarship assistance for District of Columbia elementary and secondary school students.

Wyden amendment No. 1250, to establish that it is the standing order of the Senate that a Senator who objects to a motion or matter shall disclose the objection in the CONGRESSIONAL RECORD.

Graham-Mack-Kennedy amendment No. 1252, to provide relief to certain aliens who would otherwise be subject to removal from the United States.

Mack-Graham-Kennedy amendment No. 1253 (to amendment No. 1252), in the nature of a substitute.

AMENDMENT NO. 1249

The PRESIDING OFFICER. The pending question is the Coats amendment No. 1249. Who yields time?

Mr. COATS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am pleased that over the last few days we have had the opportunity to debate what I think is a very vital and very important issue, particularly one that affects low-income children in the District of Columbia. We have had a number of debates on the Senate floor on the question of vouchers for students to have a choice to attend another school because the parents do not feel the school their child is in is providing the education they need to succeed.

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

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We have a particularly acute situation in the District of Columbia whereby a number of children find themselves trapped in schools, in particularly low-income, primarily minority neighborhoods, with virtually no way out. We know that many aspire to be pro athletes, and I join that group that aspires to do that, but unfortunately God only gives a very select few the kind of talent to do that. Education is one of the primary ways for young people to better their circumstances, particularly in situations where children of limited means or practically no means find themselves locked in a situation that gives them no choice. Then their opportunities for meaningful and gainful employment in the workplace or for continued education to give them better opportunities is forfeited.

The D.C. Scholarship Program is something that Senator LIEBERMAN and I have coauthored and have worked to pass. We are moving toward a very important vote at 11 o'clock that will allow us to continue the debate, which I think is not just a debate focused on this bill but a debate that this Senate, Congress, the President, and the entire country should be engaging in: How do we improve our education system? It has been nearly a decade and a half since the report ''A Nation at Risk.'' That report cited the mediocrity of American public education. There have been a number of reforms that have taken place in different parts of the country, but it seems that those who are left behind are those who occupy low-income homes, mostly minority students in failing schools, urban school systems.

Now, our goal is not to replace the public school system in the District of Columbia or anywhere else. Clearly, given the number of students we have, the limited availability of private schools, we need to find ways to strengthen the public school system. We believe that this offers an opportunity to provide that impetus, that spur, to help move along the necessary reforms in the D.C. public school system. We also believe it offers an opportunity to 2,000 children in the District to better their situation, to utilize the voucher to provide an opportunity for a better education. So this bill would provide scholarships for 2,000 young people in grades K through 12 in the District of Columbia that are at or below 185 percent of poverty. It would also provide tutoring help for those who chose to stay within the public schools but needed some assistance in terms of reading and math.

Mr. President, I yield at this particular time. I know we have a limited amount of time. Senator LIEBERMAN and I will be dividing that time up, and I believe we have one or two other speakers on our side.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 10 minutes.

Mr. President, I oppose the voucher amendment to the District of Columbia appropriations bill. Students in the District of Columbia deserve good public schools, safe public schools, well-trained teachers and a decent education. Vouchers will undermine all of these essential goals by undermining the public schools, not helping them.

Vouchers will simply subsidize private school tuition for 3 percent of the students in the public schools and leave the other 97 percent of the students even worse off. Public funds should be used for public school reforms that help all students, not to pay for a few public school students to attend private and religious schools. Our goal is to improve public schools, not encourage families to abandon them.

We all want the children of the District of Columbia to get the best possible education. We should be doing more, much more, to support efforts to improve the local schools in the District. We should oppose any plan that would undermine these efforts.

A year ago, as part of an overall effort to deal more effectively with the serious financial and other challenges facing the District of Columbia, Gen. Julius Becton was appointed to improve the D.C. schools. General Becton asked for $87 million to make the critical repairs necessary to ensure that all schools would be ready to open for the 1997–98 school year on time, yet only $50 million was appropriated by Congress to repair the schools. Requests for additional funding were initially denied and were only made available by Congress at the last minute. So Congress bears part of the responsibility for the continuing problems of the D.C. schools, including the festering problems that led to the embarrassing delayed opening of the schools this fall.

This voucher amendment would further undermine General Becton's efforts just as he is making headway in repairing D.C. schools, increasing security and developing effective ways to improve the schools and help all students reach academic standards.

In addition, the voucher system would impose yet another bureaucracy, another federally appointed board on the District of Columbia to use Federal funds to implement the voucher system. The nominations of six of the seven board members would be controlled by Republican leaders of Congress. Only one representative of the District of Columbia would serve on the corporation.

Instead of supporting local efforts to revitalize the schools, the voucher proponents are attempting to make D.C. public schools a guinea pig for an ideological experiment in education that voters in the District of Columbia have soundly rejected and that voters across the country have soundly rejected, too. Our Republican colleagues have clearly been unable to generate any significant support for vouchers in their own States, and it is a travesty of responsible action for them to attempt to foist their discredited idea on the long-suffering people and long-suffering public schools of the District of Columbia. If vouchers are a bad idea for the public schools in 50 States, they are a bad idea for the public schools of the District of Columbia, too.

Many of us in Congress favor D.C. home rule and many of us in Congress believe that the people of the District of Columbia should be entitled to have voting representation in the Senate and the House, like the people in every State. It is an embarrassment to our democracy that the most powerful democracy on Earth denies the most basic right of any democracy—the right to vote—to the citizens of the Nation's Capital.

The District of Columbia is not a test tube for misguided Republican ideological experiments on education. Above all, the District of Columbia is not a slave plantation. Republicans in Congress should start treating the people of the District of Columbia with the respect that they deserve.

General Becton, local leaders, and D.C. parents are working hard to improve all D.C. public schools for all children. Congress should give them its support, not undermine them.

We have here, Mr. President, the examples of some of the activities that are taking place in the Walker Jones Elementary School in Northwest Washington working with the Laboratory for Student Success, using Community for Learning, a research-based reform model, and it is working. The concept is called whole school reform. With increased and more intensive teacher training, in proven methods and materials geared toward better student learning, student test scores have improved. After 6 months in the program, the school raised its ranking in the District on reading scores from 99th in 1996 to 36th in 1997. In math, the school climbed from 81st in the District to 18th. It is working. These kinds of investments are working in this particular school.

The John Tyler Elementary School in Southeast Washington uses the Comer School Development Model Program to restructure school management, curriculum, and teacher training. Teachers focus on reading and math instruction as well as hands-on learning in science and math. All of the students in the Tyler School, of whom 95 percent come from low-income families, are benefiting from the reforms. Academic achievement is going up. It is improving.

Spingarn High School in Northeast Washington has extended the day because they felt that school safety was a first priority. The school is a safe haven for students, and the academic standards are going up.

The District of Columbia has created the so-called Saturday academies for students who read below grade level. The Saturday curriculum reinforces

the weekly instruction and benefits from a reduced student-teacher ratio, and the results show that it is working.

These are examples of what is taking place in the District of Columbia, working for all students. They should be encouraged. They should be expanded. They should be given the resources to be able to implement those programs.

Mr. President, $7 million would provide afterschool programs for every school in the District of Columbia. That would benefit all students, not just a very small group.

Scarce education funds should be targeted to public schools. They do not have the luxury of closing their doors to students who pose challenges, such as children with disabilities, limited English-proficient children, or homeless students. Vouchers will not help children who need the most help.

Voucher proponents argue that vouchers increase choice for parents. But parental choice is a mirage. Private schools apply different rules than public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away.

In fact, many private schools require children to take rigorous achievement tests, at the parents' expense, as a basic for admission to the private schools. Lengthy interviews and complex selection processes are often mandatory. Private schools impose many barriers to admission. Few parents can even get to the schoolhouse door to find out if it is open to their child. For the vast majority of families with children in public schools, the so-called school choice offered by the voucher scheme is a hollow choice.

Public schools must take all children, and build a program to meet each of their needs. Private schools only take children who fit the guidelines of their existing programs. We should not use public tax dollars to support schools that choose some children, and reject others.

There are also serious constitutional objections to the voucher scheme. The vast majority of private schools that charge tuition below $3,200 are religious schools. Providing vouchers to sectarian schools violates the establishment clause of the first amendment of the U.S. Constitution. In many States voucher schemes would violate the State constitution, too. Courts in Wisconsin, Ohio, and Vermont have all reached decisions this year upholding the ruling that the use of public funds to pay for vouchers for religious schools is unconstitutional.

If voucher proponents genuinely wanted to help the children of the District of Columbia obtain a good education, they would use the $7 million in this amendment to support reform efforts to improve the public schools. Money is not the only answer to school reform, but it is a principal part of the answer. Public schools in States across the country are starved for funds, and so are the D.C. public schools.

We saw an example just this morning. The Ballou Senior High School here in the District was forced to close due to a leaky roof caused by the weekend rainstorms. Students were sent to Douglass Junior High School, one of the buildings closed by the District. Again, the students of the D.C. schools suffered because of poor facilities. Seven million dollars would begin the critical repairs to the 80 buildings that did not get new roofs this year, to make sure that this will not happen to other schools.

We know what works in school reform. Steps are available with proven records of success to improve teaching and instruction, reduce crowded classrooms, and bring schools into the world of modern technology—let alone repairing crumbling schools facilities and making classrooms, corridors, and playgrounds safe for children trying their best to learn in conditions that no private schools would tolerate.

Too often, with good reason, children in too many public schools in too many communities across the country feel left out and left behind. Vouchers will only make that problem worse. Three percent of the students would be helped by enabling them to attend private schools, while 97 percent of the students are left even farther behind.

Supporting a few children at the expense of all the others is a serious mistake. We don't have to abandon the public schools in order to help. We should make investments that help all children in the D.C. schools to obtain a safer and better education. I hope my colleagues will reject this amendment.

Again, we should not impose on the District of Columbia what voters in other States don't want. In the last year, voters in Colorado, Washington, and California have rejected the vouchers. In the past 10 years, State legislatures in 16 States have voted this down. Even the Texas legislature rejected even the vouchers this year, and we should as well.

I reserve the remainder of our time.

Mr. COATS. Mr. President, I yield 4 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I note at the outset we should not impose on the children of the District of Columbia what Members of the U.S. Senate are not willing to do. We did a survey of Members of the U.S. Senate to find out how many sent their children to the District of Columbia public schools. Of the 100 Members of the U.S. Senate, we were able to get ahold of 95 offices. We have not found an office yet that sends their children to the District of Columbia public schools.

Should we require students whose families do not have the income to be able to either move to other schools or to go to private schools to stay in this public school system? I submit we should not. It is not fair to the kids.

Listen to the statistics. These are just the facts. No. 1, 78 percent of the fourth grade students are below basic reading achievement levels in the District of Columbia. I chaired this subcommittee. I have held numerous hearings on this. I have gone to the schools. These are the facts.

No. 2, 11 percent of the students in the D.C. public schools have avoided going to school for safety reasons.

Fact No. 3, 11 percent of the students in the D.C. public schools report being threatened or injured with a weapon during the past school year.

Fact No. 4, this amendment provides low-income students and their parents a choice, a choice they currently do not have under the D.C. public school system. Right now, pupils in the District do not have a choice but to risk their lives and their potential for educational achievement by going to the D.C. public schools.

Fact No. 5, General Becton, who heads the reform in the District of Columbia public schools, said, ''Give me to the year 2000. We will fix the schools up by the year 2000.'' And I am behind the General and the work he is trying to do to make these public schools better. But if you are a first grade student that means you are going to be in the first and second and third grade in these schools that have failed the kids. And they have failed the children. Some of them have worked, but overall they have failed the students. They have to learn to read and write and add and subtract during those 3 years. That time is too valuable to condemn those students to that type of situation.

It is not fair to the kids. If they had the wherewithal, if they had the income, a number of them would move out to different schools in Maryland or Virginia or to private schools. They don't have the option to be able to do that. This is not fair to the kids, to condemn them to this system. All we are asking is for students below that certain level of poverty, that they be able to have the possibility of doing what most of the Members—in fact all we have been able to find, of the 95 that we surveyed and got ahold of—all of the Members in the U.S. Senate do, and that is send their children to other schools because this system has failed. This system has failed the children, according to the District of Columbia control board itself. This system has failed the children. Let's not condemn that first grader, that second grader, that third grader, not to be able to read or write by not allowing this choice.

One of my highest priorities as the chairman of the Senate Subcommittee on Oversight of Government Management, Restructing, and the District of Columbia, is to make sure the children in the Nation's capital are receiving the quality education they deserve. The District's public schools, unfortunately, have failed too many students.

I'm pleased to join Senators COATS, LIEBERMAN, and LANDRIEU in offering this amendment to empower students and their parents in the District with a choice in their education.

I, along with the distinguished ranking member of my subcommittee, Senator LIEBERMAN, have held hearings to explore options to improve public education in the District. I know there are public schools which are working and where students are thriving in their learning environment. I had the privilege to visit two schools in the District: Stuart-Hobson Middle School and Options Public Charter School. I was impressed by the success of their educational programs and how the students took pride in their education. The Options Public Charter School was especially interesting as an example for future charter schools in the District to follow. These schools, unfortunately, are exceptions in the District public school system.

The overall facts about the District public schools speak for itself: 78 percent of fourth grade students are below basic reading achievement levels; 11 percent of the D.C. public schools have avoided going to school for safety reasons; and 11 percent of the students report being threatened or injured with a weapon during the past year. We cannot continue to trap these students in an educational system that is failing them.

This amendment provides low income students a choice they currently do not have under the D.C. public school system. Right now, pupils in the District do not have a choice but to risk their lives and their potential for educational achievement by going to the D.C. public schools. Right now, students in the District do not have a choice but to go to a D.C. public school knowing the glaring reality that the longer they remain in the D.C. public schools, the less likely they will succeed. The Coats-Lieberman-Brownback-Landrieu amendment would give low-income students and parents the choice to enroll their children in a safe environment with high quality education at a private school. Under this amendment, the parents and the students are empowered with a choice in their education. It is an immediate solution to an immediate crisis in the District.

Gen. Julius Becton, chief executive officer and superintendent of the District of Columbia Public Schools, and the District of Columbia Emergency Transitional School Board of Trustees have said that they will make significant improvements by the year 2000, and I recognize and respect the work that lies ahead of them. But the year 2000 is 3 school years away. In three school years, a child progresses through grades one through three in which they learn to read, write, add, subtract, and so forth. These 3 school years are too valuable to force these students to continue in the public school system that has not delivered.

The focus of this amendment is on the low-income student in the D.C. public schools. By providing up to $3,200 in individual scholarships to low-income families who will choose the school for their children, this amendment would give these students the chance to make sure the next three school years do not go to waste while General Becton improves the D.C. public schools. Improving the chances for these children to get the education they need is one of the most fundamental elements to restore the Nation's capital into the shining city the United States deserves.

Mr. President, I ask the Members to support the Coats amendment and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say to my friend from Massachusetts, thank you for leading this side.

Mr. President, this amendment—and this is the reason why we are voting against cloture—this amendment would use $7 million of public taxpayer funding to pay tuition at private schools. We are in battle to balance the budget. I am proud to say we are making great progress. But I know that Americans agree that education is a priority and, while we cannot give every child a scholarship, while we cannot do everything we want to do, while we cannot fund, as we would like, Senator CAROL MOSELEY-BRAUN's incredible initiative as we rebuild our crumbling schools—while we cannot do that, here we are diverting $7 million of taxpayer funds and giving them to private schools.

Who are we helping in the District of Columbia? Who, under this idea, do we contend would be helped? Mr. President, 2,000 out of 78,000 children; 3 percent. It is the 3 percent solution when we need a 100 percent solution. You know, you could really debate whether 3 percent of the kids would be helped. Because I have read this proposal, and I have to tell you, if I were for vouchers I would have written it a little differently. Why do I say that? This allows schools to spring up, mom-and-pop-shop schools, untested, if they can show that they can draw 25 children. Untested schools will spring up to grab this new source of funding from Uncle Sam. Because, as we know, the good schools that are touted around here, No. 1, many of them are filled up; No. 2, most of them charge at least twice the tuition that these children will get. So we are, in essence, going to start a whole new cottage industry of people popping up with ''new schools,'' to grab this taxpayer money. To supposedly help 3 percent of the kids. I contend 3 percent of the kids will not be helped by going to some of those operations.

So, I hope my colleagues will read this proposal because, if you read it, you learn a lot of interesting things. For example, a new board of directors is set up. This is a bureaucracy, folks—a new bureaucracy. The board of directors are going to be political appointees, political appointees. So here we have a lot of talk about, ''get government out of our lives,'' and who is going to decide this? Political appointees: The Speaker of the House, NEWT GINGRICH, is going to recommend these appointees to the President. Guess what, buried in that bill, the people who sit on these boards can earn up to $5,000 a year in a stipend. That $5,000 is more than the tuition check for the child. So we are creating a little cushy new bureaucracy here, with political appointees, to help 3 percent of the kids, which I contend would not be helped.

So, I feel Members ought to look at this. My State, California, has rejected vouchers twice. Let me tell you the reason. The reason is they want to help 100 percent of the kids. They are smart. They know the answer lies in better schools. That's why we backed charter schools, that's why we want national standards, to make sure that our children are living up to their potential. So these are the things that we want to do in California.

Mr. President, we could take this $7 million and we could do a lot of repairs on some of these D.C. schools. Some of them need boilers, because it is freezing in those schools. We could set up an after-school program. That is so important. We are doing it in Los Angles and Sacramento, so these kids have something to say ''Yes'' to after school. We could set up many of those after-school programs with this $7 million. By the way, just take the half-million off the top you are going to use for this new bureaucracy, you could fix a lot of schools. You could put after-school programs in. You could mentor a lot of children.

So I want quality schools for every child in America. I think this is a surrender. This is a surrender. And even with it, if it went into place, in my view it would encourage these new little schools to pop up, untested, because somebody would get the idea: Oh, this is great. I can get $3,500 per child. I will just set up my own school. And convince this board of directors that is politically appointed that they ought to be allowed to continue.

I hope we are going to reject this. I do not doubt for one moment that the people who put this forward are very sincere and caring about children. I just think it will have unintended consequences. I hope we will vote this down.

I thank my colleague from Massachusetts and I yield the remainder of my time to him.

Mr. KENNEDY. Will the Senator yield just for a question?

Mrs. BOXER. I believe I yielded my time back to the Senator.

Mr. KENNEDY. I yield the Senator 3 more minutes, if we need to.

Mrs. BOXER. Yes.

Mr. KENNEDY. Seven years ago, 53 percent of the D.C. teachers were not certified. Last year that number had dropped to 33 percent. In 1997, all new teachers are going to be certified and existing teachers who are here must be certified by January, 1998, or risk dismissal. Is that the kind of reform that you are talking about, a comprehensive solution, rather than helping just a few children? Programs that enhance the training and bring teachers up to speed so they have world class standards and world class certification, to be able to work with all children? Is that the kind of thing that the Senator from California is talking about?

Mrs. BOXER. Absolutely. I am talking about quality schools for 100 percent of the children, and I think the chart behind the Senator from Massachusetts explains the situation:

Restructure the whole school; foster world-class instruction; extend the school day; enhance family centered learning.

I talked about after school. Senator CAROL MOSELEY-BRAUN talks about fixing the crumbling schools. This is what we ought to be doing, not surrendering and giving these dollars to private institutions, some of them that are going to be totally untested, I say to my friend.

Mr. KENNEDY. Will the Senator yield further? Under General Becton's new initiatives, students in grade 3 and 8 have to have the basic reading skills before advancing to a higher grade. This requirement reflects the commitment of the District of Columbia to ensure all children master basic reading skills. That has been the new program.

Do I understand that if we had $7 million to try to implement those kinds of programs to work with kids, particularly those that may have more difficulty working through and enhancing their academic achievement, we would see all of the students in that class moving along together in enhancing their reading capabilities, which is key to all learning in the future? Those are the kind of investments that the Senator thinks would make sense for all the students, I imagine?

Mrs. BOXER. Absolutely, and testing. We support, you and I, this voluntary national testing. It is interesting, some of the people who are the strongest supporters of giving back to these private schools are fighting against testing. They don't want to have the children tested. Therefore, we will never know who is being left behind. The Senator is on target. We know what we have to do to make these kids whole. We know what we have to do to help 100 percent of the kids.

Mr. KENNEDY. I thank the Senator. I reserve the remainder of our time.

Mr. COATS. Mr. President, I yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let's begin by talking about testing. I have here a pie chart that talks about people who attend D.C. public schools. These are the cold realities of the situation: 52.9 percent of them drop out of D.C. public schools before they graduate. So, obviously, they don't have a chance of going to college.

Of the less than half who graduate, 22.1 percent of all people who are in the system never take the SAT test that would allow them an opportunity, if they are successful, to attend a major college or university.

Of those who take the test, half make below 796 on the test. That is below the minimum standard set by most major colleges or universities in this region of the country.

So to begin with, roughly only one out of eight students has any chance in the world of attending a major college or university. That is the quality of the system that we see defended today by people who are willing to let children go to schools that don't teach, that don't deliver, that don't produce quality in order to defend teachers unions and vested interests.

Let me show you the next chart. The next chart basically points out where we are in the District of Columbia as compared to what is required to actually be successful and go on to a college or university.

The average student in the District of Columbia makes 790 on the SAT test. The average for the country as a whole is about 1050. To go to the University of Maryland, you have to average about 1170. To go to Penn State, you have to average about 1190. To go to the University of North Carolina, you have to score about 1230, and to go to the University of Virginia, you have to make about 1300.

Talk about discriminating against children. You force working families in the District of Columbia to send their children and their money to schools that turn out children that make 790 on the SAT test, and you are discriminating against them before they ever have any opportunity to use their God-given talents to advance themselves and their families.

Let me make note of the fact that the NCAA says that if you don't make 840 on the SAT test, you are not a real student and you are being exploited by playing football or basketball at a major college or university. The average SAT score in the District of Columbia is 789. That is clearly a case of failure.

Is it a failure to commit money? The average school system in America spends $5,765 per student. The District of Columbia spends $10,180 per student, roughly twice the national average, and yet look at the final product. But not for children of D.C. teachers. They want a mandatory program for everybody except themselves.

Nationwide, 12.1 percent of public schoolteachers on average send their kids to private schools. But in the District of Columbia, it is 28.2 percent. So despite more money than any other school system in America—twice the national average, more than twice the number of teachers in the District of Columbia send their children to private schools as the national average. Yet the test scores continue to reflect failure, and this is not new.

The failure of the D.C. schools to deliver in terms of hard achievement are well documented, and they have been in existence for a long time. Why not spend $7 million to give people a chance to compete? For God's sakes, this is something we ought to do. We ought to be ashamed of denying these children an opportunity to compete. I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). Who yields time?

Mr. KENNEDY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes remaining.

Mr. KENNEDY. I yield 6 minutes, or more, if the Senator from Illinois wants it.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President. To my colleague and friend from Texas, I raise the point that this is not just a matter of a mandatory system for everybody but themselves, referring to people in the District of Columbia, but, as I understand it, the State of Texas has rejected an attempt to put in vouchers. So this issue is one which is applied to the District but not to the State of the Senator from Texas. I think we ought to consider for a moment if it is not good for Texas, it is not good for anyone else in the country.

I point out this argument about helping poor kids ought to be looked at very seriously. Are we really helping poor children, No. 1, and, No. 2, does it help poor children to hold them out to be guinea pigs in an experiment that has not worked anywhere that it has been tried for which we have no information and in which, quite frankly, it represents a clear capitulation and a clear admission of failure, not just of failure, but of a lack of will to reform and revive the system of public education that we have in the District of Columbia?

The fact of the matter is, the $7 million that is to be diverted from the District schools won't fix a single school, won't fund reform and won't support the children who are there. I think that we should be building up the schools, not tearing them down, not taking money or bleeding money away from a public school system that admittedly is troubled. We want to reform the public schools in the District, but they have started a reform effort and, much as the reform effort in my home State of Illinois, it has shown to have great success where there is energized and committed leadership. We can reform our schools if we will just believe that they can be reformed, if we will just invest in them.

The fact is, again, with the $7 million we could make a real difference in the D.C. public schools. We could fully fund every after school program in the D.C. schools. We could buy 368 new boilers for the schools. We could rewire 65 of the schools that don't have the electrical wiring to accommodate computers and multimedia equipment. We could upgrade the plumbing in 102 schools with substandard facilities. We could buy 460,000 new books for the D.C. school libraries.

Instead of engaging the $7 million to fix what we have, we are going to say, let's bleed this patient to death, let's spin off enough for 2 percent of the schoolchildren and leave the others behind.

Let me point out for a moment, and it has been mentioned in the debate already, that one of the schools in the District just today had to close because of a leaky roof. As you know, I have been speaking about the whole issue of school facilities for a while, and in the District of Columbia, we see, according to reports by the General Accounting Office and others, that 67 percent of the schools have crumbling roofs.

If you know anything at all, you know if you have a leaky roof, you are likely to have walls that collapse and floorboards that curl and electrical wiring that can't be used. So having a leaky roof goes to the very heart of the environment for learning.

Are we going to put the $7 million into fixing some of those crumbling roofs? Apparently not, according to this plan.

Sixty-five percent of the schools in the District of Columbia have faulty plumbing, again, a situation where we have children who go to schools where the plumbing doesn't work. Yet, instead of saying we are going to fix the plumbing we are going to engage to support and build up and improve education for these kids, we are going to spin off some of them into another system, again, that has never been tried and created, and that we don't, frankly, know whether or not it is going to provide any benefit at all even to them.

Forty-one percent of the schools don't have enough power outlets and electrical wiring to accommodate computers and multimedia equipment. Everybody knows in this generation of students, computers are what books were to my generation. The kids have to have computers, and that is one of the reasons people do want to have quality education because they want to make certain their youngsters can get on the information superhighway. You can't plug the computer in if you don't have electrical wiring in the wall.

Yet, instead of putting $7 million into fixing the electrical wiring in the schools, we want to spend that money somewhere else.

Sixty-six percent of the schools have inadequate heating, ventilation, and air conditioning. Again, I don't know if people listening have spent a summer in the District of Columbia, but if you get here toward summertime, being in a room without air conditioning is close to being sentenced to purgatory. The children in the public schools would benefit if we were to make the kind of investment in them, as opposed to, again, bleeding the system as this proposal suggests.

I think, Mr. President, though, that at the heart of this debate is really almost a sad kind of capitulation, a sad kind of a lack of will that says that education is just a matter of whether or not I got mine, get yours, go into the market, buy an education for this chit and if you don't get a chit and can't buy a better education, that is too bad for you. The whole notion of public education is that it creates a public good, that it is something that benefits all of us, and that public education becomes, if you will, the great center of meritocracy that defines what this country is all about.

The ladder of opportunity is crafted in the classroom in America. What we are now saying is that some will get the opportunity and others will not. Assuming for a moment that this proposal were adopted—and I am going to do everything I can in opposition to it—but assuming it were adopted, of the 80,000 children in the District of Columbia, about 2,000 of them would be served. That would leave then 78,000 children left behind, left behind with schools that have crumbling roofs, faulty plumbing, not enough electrical power, and inadequate heating, ventilation, and air conditioning. That is what this proposal really represents.

I had in my office two students who were interns briefly. They were actually high school students from the District of Columbia. The reason they were working in my office as recently as last week was because they couldn't go to school, and they couldn't go to school because the courts had closed their school down for bad facilities. The infrastructure was so bad in their schools that they had no place to go to get an education. So we took them in to give them an opportunity just to do something during the daytime.

In the face of that failure, how we can suggest or how it can be suggested that bleeding that system even further instead of investing in it and giving it the support seems to me to be not only shortsighted but counterproductive. I think we can afford to waste no child. I think we should leave no child behind. To the extent that the combination of money and leadership, because it is not just money alone, it has to take an engaged population, if we engage to preserve, to revive and to reform these public schools, we can save them, and we can provide opportunity for all of our children.

The idea is not to create a two- and three-tier system of education so some can get and others cannot, what we want to do is have quality education for every child, so whether that child is an orphan or that child has parents who don't understand the school system or don't speak the language, that child will not be left behind in that which we have relegated to the back burner, that which is left over after we have siphoned off the resources into a private system.

I say let's not make the children of the District of Columbia guinea pigs in this ill-considered experiment.

I thank the Chair. I yield the floor.

Mr. HELMS. I am grateful to the Senator from Indiana [Mr. COATS] and the Senator from Connecticut [Mr. LIEBERMAN] for their having introduced the pending amendment. They are to be commended for offering this proposal, which will improve the circumstances of many students who live in the District of Columbia, and who want to escape—and no other word really fits—escape the horrific conditions that exist in so many local public schools.

I would say to my friends from Indiana and Connecticut that it takes a lot of courage to stand up against the public education establishment. They're a powerful bunch, the National Education Association crowd, and they're not afraid to use all of their muscle to oppose any effort to help parents find alternatives to failing public school systems.

Those who have examined the appalling state of the D.C. public schools are fully aware that parents need an alternative to the status quo. On February 20 of this year, even the Washington Post reported the following dismaying statistics:

Sixty-five percent of D.C. public school children tested below their grade levels for reading in the Comprehensive Test of Basic Skills.

Seventy-two percent of fourth-graders in the D.C. public schools tested below the ''basic proficiency'' level on the National Assessment of Education Progress test given to students every 2 years—this was the lowest score of any school system in the country.

The dropout rate among D.C. public schools students is an astounding 40 percent.

Meanwhile, even those that graduate are unprepared. More than half of D.C. public school graduates who take the U.S. Armed Forces Qualification Test scored below 50 percent on the test—that's a failing grade, Mr. President. That might be the saddest statistic of all. These young people—who want to better their lives through association with our armed forces—cannot pass the vocational aptitude exam given to aspiring recruits because the D.C. public schools are not properly preparing them.

So, Mr. President, the list goes on and on. The Heritage Foundation reports that 11 percentage of students in the D.C. public school system avoid school because they fear for their own safety. Isn't that sad, Mr. President? Children in our Nation's Capital are afraid to go to school.

Then again, why wouldn't they be afraid? Sixteen percent of the students

in the D.C. public schools have at one time carried a weapon into their school. There are metal detectors at many if not all schools to prevent pistols, switchblade knives and narcotics from being smuggled into the classrooms.

Nor is it just the students who are afraid. Almost one in five D.C. public school teachers report that verbal abuse from their students is a serious problem. With conditions like these, no wonder student performance is so low.

Mr. President, again I congratulate Senator COATS and Senator LIEBERMAN for offering this amendment, which opens up the alternative of private or parochial schools to parents whose family income is below 185 percent of the poverty level. Their plan provides opportunity scholarships of up to $3,200 for parents who are fed up with the education—or, rather, the lack of education—provided by the D.C. public schools.

Mr. President, there is a lot of misinformation swirling about concerning the high cost of private and parochial schools. When the words private school are mentioned, the image of elite and high-priced education often springs to mind. Nothing could be further from the truth.

In fact, there is a vast and accessible network of private schools in the Washington area. My friend, the Senator from Indiana, informs me that there are 60 private schools in this area that cost less than $3,200 a year—the amount that families living below the poverty level can receive under the Coats/Lieberman amendment.

Of these 60 schools, many are the remarkable Catholic schools that operate in the most poverty-stricken parts of Washington, DC. These schools are willing and able to provide true quality education to poor students; in fact the Catholic Archdiocese of Washington reports over 1,000 spaces are available in its 16 Washington schools.

They want to do the job, Mr. President. But first, Congress must stand up to the teachers' unions and the rest of the public school establishment that doesn't want to answer for the poor performance of public schools. The Coats/Lieberman amendment is a day of reckoning for the failure of the D.C. public school system—and an outstanding way for Congress to help school children receive the education they deserve.

Mr. DODD. Mr. President, I rise today in strong opposition to this amendment.

Few issues are as divisive in education as this one—private school vouchers. There are very strong feelings on both sides of this issue. This is as it should be on issues affecting our children—strong feelings should be the norm. But I believe we should be concerned for all children, not just for a few.

Our universal system of public education is one of the very cornerstones of our Nation, our democracy and our culture.

In every community, public schools are where America comes together in its rich diversity. For generations, educating the rich, poor, black, white, first-generation Americans—be they Irish, English, Japanese or Mexican-Americans—and all Americans has been the charge and challenge of our public schools. It is clearly not the easiest task. But it's importance cannot be undervalued.

These efforts are essential to our democracy which relies on an educated citizenry, to our communities which require understanding of diversity to function, and to our economy which thrives on highly educated and trained worker. Education—public education—is also the door to economic opportunity for all citizens individually.

However, voucher proposals, like the one before us today, fundamentally undermine this ideal of public education.

Supporters of these programs never argue they will serve all children. They simply argue it is a way for some children to get out of public schools. The amendment offered today would provide 2,000 children, at most, with vouchers. But the D.C. public schools serve 78,000 children and about 50,000 are low-income.

I do not argue that our public schools do not face challenges—violence, disinvestment and declining revenues plague some of our schools, just as they do many other community institutions.

And our schools are not ignoring these problems—even with limited resources.

Many are digging themselves out of these problems to offer real hope and opportunities to students. James Comer in Connecticut has led a revolution in public schools across the country by supporting parents and improving education through community involvement and reinvestment in the schools. Public magnet and charter schools are flourishing offering students innovative curriculum and new choices within the public school system. School safety programs, violence prevention curriculum and character education initiatives are making real gains in the struggle against violence in our schools and larger communities.

And these reform efforts are beginning to show results. Our schools are getting better. Student achievement is up in math, science and reading. The reach of technology has spread to nearly all of our schools. The drop out rate continues to decline.

We clearly have a ways to go before all our schools are models of excellence, but our goal must be to lend a hand in these critical efforts, not withdraw our support for the schools that educate 89 percent of all students in America—public schools.

And there is no question about it, private school vouchers will divert much needed dollars away from public schools. Our dollars are limited. We must focus them on improving opportunities for all children by improving the system that serves all children—the public schools.

The $7 million this amendment would dedicate to D.C. vouchers are much better invested in the District of Columbia's public schools. Last week, Secretary Riley outlined how he would spend these funds on whole school improvement efforts and after-school programs. In addition, the infrastructure needs in D.C. schools remain quite severe—under the leadership of General Beckton, things are improving and these problems are being addressed. But, he estimates infrastructure needs alone top $2 billion.

Proponents of private school choice argue that vouchers will open up new educational opportunities to low-income families and their children. In fact, vouchers offer private schools, not parents choice. The private schools will pick and choose students, as they do now. Few will choose to serve students with low test scores, with disabilities or with discipline problems. Vouchers, which will be between $2,400 and $3,200, will not come close to covering the cost of tuition at the vast majority of private schools in the District.

In fact, the tuitions they will cover are at religious schools raising serious constitutional questions. No Federal court has ever upheld the use of vouchers for parochial school or religious education. To receive these funds, private religious schools would likely have to change the nature of their educational programs and eliminate any religious content. Many schools would be unwilling to do this; further limiting parent's ability to choose.

There are also important accountability issues. Private institutions can fold in mid-year as nearly half a dozen have done in Milwaukee leaving taxpayers to pick up these pieces—only the pieces are children's lives and educations.

This amendment also establishes a new bureaucracy within the District of Columbia to administer this program. There will be a board of citizens—only one of whom will be appointed by a D.C. official—to set up and oversee this program. For all our criticism of the D.C. government, its layer of bureaucracy, and lack of accountability structures, it is ironic that this amendment would set up yet another governing body. This is a long way from what this city needs.

Mr. President, our public schools are not just about any one child; they are about all children and all of us. I do not have any children, but I pay property taxes and do so happily to support the education of the children I am counting on to be tomorrow's workers, thinkers, leaders, teachers and taxpayers.

Our future is dependent on nurturing and developing the potential of every child to its fullest. Investing in our public schools is the best way to reach this goal.

I urge my colleagues to join me in defeating this amendment.

Mrs. MURRAY. Mr. President, today we debate an amendment to the fiscal year 1998 District of Columbia Appropriations Act that would provide publicly-funded vouchers to low-income students so they can attend private and religious schools in the District and surrounding areas.

The bill would authorize $7 million in the first year and a total of $45 million over 5 years. My colleagues have pointed out that this $7 million would only serve 3 percent of the students in the Washington, DC school district, and that we should instead be looking at investments that will help 100 percent of the students.

How much would $7 million buy for all the students in Washington, DC schools? How much real help—that would improve their ability to learn and succeed?

How many teachers, reading assistants, school counselors, nurses, or volunteer coordinators would $7 million buy? How many computers, video systems, wireless communications systems, computer-assisted drafting systems, technology labs and other tools could $7 million buy? How many different ways could we help the parents—through parent involvement programs or family literacy services—to help their children succeed in school, with $7 million?

My colleagues have in this debate asserted or intimated that defense of the public school is essentially defending the status quo, and being afraid of change. Well, when it comes to using public school funds to pay for students to attend private, sectarian schools, the status quo is actually set in the U.S. and many State constitutions.

Our country has a rich history, since Roger Williams, Thomas Jefferson, and James Madison, that keeps a line of separation between our public tax dollars and the checking account at the local house of worship. These debates are further informed by public votes and public polls. As far as the American public is concerned, this particular ground has been gone over. The argument is moot; the law is clear.

The experiences of the State of Washington also have bearing on this issue. I stand before you as a former school board member from a State where the law allows school boards to change anything not otherwise prohibited by law—to help students learn.

Washington State allows wide flexibility in carrying out existing school law—and the Washington State Legislature has held many open public debates on laws that seem too stifling. In every school in my State, like those in many other States, there are teachers, students, parents, and community members thinking about how to make schools better, and taking actions to make them better.

I want to be very clear about this—fear of change is not the obstacle here. My State also has a public school choice law that allows any student to attend school in any public school they choose. One thing we ve learned from this Washington State law is that the biggest frustration occurs when a school determines, as it is allowed, to say when the school is full, and closes the door to new students—who then must choose another school.

The voters of Washington had a choice last fall, to allow private school vouchers. And they overwhelmingly rejected the idea at the polls. As you have heard, this has happened in other States around the country.

Today, if you are worried about the educational crisis affecting any student in a public school anywhere in this country —you have two choices. You can play ''let's talk about vouchers,'' or you can go help a school. You can work at a think tank, or write a column for a newspaper, or become a Member of Congress.

And you can spend a good portion of your career, countless hours of debate, and millions of dollars breaking your pick in the ground of the school voucher issue. You can impose your will on the only people in the contiguous United States without representative government. You can play games with a community that faces enough challenges already. You can strive to further denigrate the D.C. schools by luring away to private religious schools the 2,000 students who are most likely to want to become leaders in a revitalized public school.

Or, you can do something productive. This $7 million could do some good. Your time devoted to a public school could help make needed changes. Your fund-raising on behalf of a public school foundation could make the difference for many students. Your tutoring or advocacy on behalf of a student or family could be the symbol that drives much more volunteer time and public awareness.

It all comes down to one parent wanting to get the very best for his or her son or daughter, and how we can help that parent. We can dangle the possibility of a religious school voucher, or we can help the student and his or her school. For that one student, this $7 million voucher system could be far less meaningful than the help and attention of one caring adult.

If any nationally-recognized voucher advocate went to that one student's school and offered to mediate a discussion, hold a fund-raiser, or work with a family—that student could find real solutions in a real school. Or, we can continue to talk about vouchers and other things that will not, and in this case, should not happen.

People have been talking about the crisis in schools for many years. The research shows we are doing better in many areas, but are not living up to the expectations of a new century. I fear that these kinds of discussions just create a crisis of a different kind—a crisis that saps our sense of volunteer spirit and voluntary support of public education. The students deserve better.

Mr. BIDEN. Mr. President, since 1992, when the Senate first voted on the issue of providing private school vouchers, I have consistently voted against spending Federal money to pay for tuition at private schools. I did so again today. But, I rise to let my colleagues know that I am reconsidering my position based on the changed circumstances in American education. I want to give everyone fair notice that in the future, I may vote to allow such a limited experiment.

I realize that whenever elected officials change their position on an issue, they are subject to accusations of flip-flopping or being inconsistent or trying to have it both ways. It is for that reason that I want to explain my thinking on this matter today.

Unlike some opponents of vouchers, I have never categorically opposed the idea of public money being used under any circumstances for private school education. Rather—and I think I have been forthright about this from the very beginning—my concerns have been very specific. First, I have questions about whether a private school voucher system, when it involves private religious schools, is constitutional. And, second, I have deep reservations about taking money away from underfunded public schools.

But, Mr. President, I do not believe that simply because I have always voted a particular way on a particular issue that I should be locked in forever to that position. Circumstances change. Thinking changes. And, I have been giving this issue a lot of thought.

I have come to the belief that the constitutional issues involved here are not as clear cut as opponents have argued. While lower courts have ruled that vouchers used in private religious schools violate the first amendment's prohibition on the establishment of religion, the Supreme Court has not yet weighed in on the question.

In fact, the Supreme Court has ruled that State tuition tax credits for private religious school tuition are perfectly constitutional, and the Supreme Court has ruled that Pell grants—vouchers for college students—can be used in private religious colleges without violating the Constitution. Granted, Mr. President, the issues that the Court has adjudicated are not exactly parallel to the issue of private school vouchers for elementary and secondary school students. But, the point is, it is an open question. Even some liberal constitutional scholars have noted that vouchers to parents and children may be constitutional. And, as long as it remains an open question, I do not think I can dismiss the issue of vouchers solely on constitutional grounds.

With regard to my second concern—that private school vouchers may drain funds away from the public schools—I now think that the issue is more complex. The real issue is not whether money is drained from public schools, but what effect vouchers would have on public schools and the quality of education those students receive. And, yes, I do believe there is a difference. Even

if vouchers were to take money away from the public schools—and I should point out that not all voucher proposals do—that does not in and of itself mean that public schools will be harmed.

When you have an area of the country—and most often here we are talking about inner cities—where the public schools are abysmal or dysfunctional or not working and where most of the children have no way out, it is legitimate to ask what would happen to the public schools with increased competition from private schools and what would happen to the quality of education for the children who live there.

Most of the opponents of private school vouchers argue that with more kids attending private schools, the support for public education will be drained. To date, that assertion has largely gone unchallenged. I am not sure it should any more. Is it not possible that giving poor kids a way out will force the public schools to improve and result in more people coming back?

Make no mistake about it. Public education must be our primary focus. And, in considering voting for vouchers in the future, I am not subscribing to the philosophy of many voucher supporters who argue that there should be no Federal role in education or that the Federal Government should not in any way help States fund public education or that we should decrease our commitment to public education. On the contrary, I think we should increase that commitment. But, for those kids who are presently caught in a failed public school, we must start asking—only asking—if public education is still the only answer.

I do not know the answer to that or any of the other questions I have raised today. But, I believe the questions need to be asked. And, it may be that the only way that we will find out the answers is to create a limited private school voucher demonstration project.

I say ''may,'' Mr. President, because I do not know. And, that really is part of the point here. I will continue to ask these questions, listen to both sides of the debate, and ponder the answers. In so doing, however, I want everyone to understand that I may conclude in the end that the only true way to answer the questions is to try vouchers—in a limited fashion for those who need the most help.

Mr. DASCHLE. Mr. President, I appreciate the concerns my colleagues have expressed for the future of the children of Washington, DC. The conditions in many of the schools are truly deplorable, and the performance levels of the children show that there are many problems that need to be addressed. I do not, however, share their faith in vouchers as a solution.

Although the sponsors have worked to address some of the problems with past voucher proposals, I see four serious flaws with this particular approach.

First, this proposal ignores 97 percent of all children in the D.C. schools. There are 78,000 children in the D.C. public schools. Approximately 50,000 of them are from low-income families. Under this proposal, only 2,000 children—less than 3 percent of all children in D.C. schools—would receive vouchers.

If helping children leave the public school system and go to private school really is the only way to get a good education—and I will outline in a moment why I do not believe it is—what message would we be sending to the children who would not get vouchers? Are we telling them that they're not important? Are we telling them that we're giving up on them?

I think we ought to tell them that they're all important, that we cannot afford to leave one of them behind. We need solutions that help all children, not just a few who happen to be lucky enough to win a lottery.

The second flaw I see with this proposal is that there is little proof that vouchers work. I certainly do not believe, as some of the proponents have claimed, that those who are left behind are helped in any way by the divisions that will be created within communities or by the loss of active parents to the public school system. But there is also little evidence that vouchers have helped the children who receive them in Milwaukee and Cleveland. The research is contradictory, but careful examination of the data seems to show that improvements in children's academic achievement has almost everything to do with family background, and almost nothing to do with vouchers.

A third problem with this proposal is that, in the end, it's not parents who choose, it's private schools. My colleagues say they want to give parents more choices, and I am sympathetic to that argument. But, who is really doing the choosing? The answer: private schools will choose. As the article in this morning's Washington Post points out, very few of the secular private schools in this area charge a tuition at or below the level of the vouchers and many of these do not have places for additional students. The better the school, the more likely they are to turn students away.

The proposal does not require private schools to accept children with disabilities or children with limited English proficiency. So, parents of these children are likely to find they have few choices available to them.

Finding schools to accept children has been a problem in cities with voucher programs. In Cleveland, for example, nearly half of the public school students who received vouchers could not find a private school that would accept them. No choice was available for those students or their parents.

Finally, Mr. President, I would point out that the public is opposed to vouchers. All parents want their children to be able to go to the best schools possible. But, when people understand how voucher programs work, they reject them. District voters rejected vouchers by an 8-to-1 margin in 1981. More recent voucher initiatives in California, Oregon and Washington State were rejected by more than 2-to-1.

Who does support vouchers? Among the biggest proponents are people who want to dismantle public schools, especially the radical religious right. In his book, America Can Be Saved, Jerry Falwell writes:

> One day, I hope in the next 10 years, I trust that we will have more Christian day schools than there are public schools. I hope I live to see the day when, as in the early days of our country, we won't have any public schools. The churches will have taken them over again and Christians will be running them. What a happy day that will be!

Mr. President, make no mistake about this. I support religious schools. I am a product of a Catholic school education. My parents had that choice, and I believe every parent should have that choice. But, I do not believe taxpayers should be forced to subsidize that choice. Our forefathers wisely understood that there should be a constitutional separation between church and state.

There are other ways to expand parents' choices without violating the Constitution. We should increase parents' ability to choose which public schools their children attend within a district, among districts and even statewide. We should increase the number of magnet and theme schools within the public school system such as math and science academies that have been developed in some communities. We should establish more charter public schools, where motivated administrators and teachers work with innovative programs in exchange for more flexibility.

Mr. President, it is pessimistic and callous to settle for helping less than 3 children in 100. We can do better. We know what works in education. We know that children need good teachers, high standards and reliable measurements to tell us whether they are achieving those standards, safe classrooms, and the active involvement of parents in the schools.

There are public schools all across the country doing an outstanding job of educating children. They are laboratories of reform and excellence. We ought to support these schools and help other public schools reach their level, not give up on the principle of providing a good public education to all children.

Sharing information about local school reforms that work, incidentally, is one of the functions performed by the Department of Education—which many voucher supporters would abolish.

The American people are not willing to abandon public schools. Polls show that 71 percent of Americans believe we should revitalize public schools, not

abandon them. They believe we should educate all children, not just a few. When Americans have had the chance to vote for vouchers, they have voted against them overwhelmingly.

In summary, this voucher amendment would: ignore the needs of 97 percent of D.C. school children; make D.C. children guinea pigs for unproven theory; give choice to private schools, not parents; and drain needed energy and resources away from efforts to revitalize our public schools.

There are better ways to improve our students' academic performance. I urge my colleagues to oppose the amendment and work with me to enact real and meaningful strategies that help all of our children, not just a few.

The PRESIDING OFFICER. All time allotted to the Senator from Massachusetts has expired.

The Senator from Indiana.

Mr. COATS. I yield myself 6 minutes, and my understanding is that will reserve roughly 10 minutes for the Senator from Connecticut.

The PRESIDING OFFICER. There would be 9½ minutes remaining.

Mr. COATS. Mr. President, it is interesting that in this debate not one person who is opposed to the scholarship program for D.C. students has come down here and addressed the fundamental issue of this debate. The fundamental issue is, will we give poverty-stricken minority children the opportunity to escape a failed educational system so that they, too, can participate in the American dream?

We have talked about plumbing, air conditioning, crumbling schools, and we have heard if you can't give it for 100, you can't give it for any. What kind of argument is that? In other words, if you can't totally reform the system all at once for everyone, you condemn another whole generation in the District of Columbia—and in Chicago and other cities around this country—to failure and the inability to gain skills to become gainfully employed or to have the opportunity to go on to further education.

Now, this argument about bleeding the system—if I could have the attention of the Senator from Illinois and the delegate from the District of Columbia, who is on the floor—bleeding the system. The D.C. school system gets $672 million a year, and you are saying that if you added $7 million, the system would be fixed?

The General Accounting Office said that 25 percent of the maintenance budget never leaves the maintenance facilities office. It doesn't go to fix plumbing. The system is broken. We are taking $7 million, not out of the $672 million, not one penny of this is coming out of the current budget for D.C. schools. The $7 million is coming out of money set aside to reduce the general deficit. That was added on to the President's budget.

Bleeding the system, fixing the ventilating, while kids can't even achieve the test score to go on to higher education, kids can't get out of a school—your own statistics show why parents want to leave. If 67 percent of the schools have crumbling roofs and 65 percent have faulty plumbing and 66 percent have inadequate heating, ventilation, and air-conditioning and more than 50 percent goes to maintenance and administration and less than 50 percent of the $672 million goes to educating students, what is wrong with that system? There is something desperately wrong with the system.

This program is designed to at least give 2,000 kids a chance. We talk about the 100-percent solution. Well, it is like if you can't give 100 percent of the kids an opportunity within a failed system, then let's not give any kids an opportunity, let's condemn all of them.

Now, the District of Columbia system needs help desperately. Even the Washington Post, not a supporter of school vouchers, has said give it a chance. At least try it, to see if maybe it spurs the system on, the D.C. public schools system, to a little bit better performance. If it doesn't work—we have a test built in here—if it doesn't work, we will try something else. But let's do something to help these kids. Let's do a small, little piece.

Now, the Senator from California talks about bureaucracy. ''Bureaucracy'' is another word for the D.C. public school system. More than 50 percent of the money, $672 million, doesn't even go to the classroom. Yet in this bill we have a cap of 7.5 percent on administration. We will match our administration with the D.C. administration any time, anywhere.

Senator KENNEDY said, who wants it? Nobody wants it in the District of Columbia. Here are 2,000 parents that want it that have signed this petition. I have a list of 100 ministers, D.C. ministers, almost all minority ministers, who said, we plead with you, give our kids a chance to get an education. They want it.

There was a recent poll taken in the District of Columbia, and 64 percent of D.C. residents indicated if they had the funds, they would get their kids out of the public school system; 40 percent drop out—the Senator had a chart saying 50; say it's 40 or 50 percent, whatever—they don't even graduate from the system.

The constitutional argument—vouchers are good enough for day care. I think the Senator supported that. Vouchers are good enough for Head Start. I think the Senator supported that. Vouchers are good enough for the GI bill and good enough for kids to go to Loyola in your State. That is a religious school. If they are good enough for people over 17 and they are good enough for kids under 5, why aren't they good enough for kids between 5 and 17?

Does the Senator want to respond?

Ms. MOSELEY-BRAUN. I would be delighted. I am very happy to respond to that.

I think the issue, and the point I have just made, if the Senator is prepared to support an effort to address this as well, to address fixing up the crumbling schools in the District of Columbia so those 98 percent of the children who will be left behind——

Mr. COATS. I will be glad to respond. This Senator would be happy to support any effort to improve public schools, but I don't put plumbing ahead of education. I think the first thing we ought to do—and I don't know why the Senator doesn't support it—we first ought to help kids get educated, and at the same time maybe we can do that.

If we don't fix the schools, we will not fix the education—that is upside down.

One last thing. It was stated on this floor that few parents can get to the schoolhouse door. Well, there are a lot of poor kids who have no opportunities in life that can't get through the schoolhouse door because Members of Congress are standing at the schoolhouse door saying, ''Nope, you are not allowed in the school. You don't have the money, you can't get in.''

I am a product of public schools. My kids are a product of public schools. I support public schools. But I don't support public schools that don't give education. I want to do something to help that public education.

I yield the remaining time existing to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes 30 seconds remaining.

Mr. LIEBERMAN. I thank my colleague from Indiana.

Let me pick up on what was said by Senator COATS, citing that this amendment is bleeding the system. Good God, the system is bleeding. It is not this amendment that is bleeding it. What is bleeding it is the failure of the system, and the blood that is being lost are the hopes and dreams of thousands of parents and children trapped in the school system who know it is a failure for them, who know it is not working for them.

I appeal to my colleagues, particularly my Democratic colleagues, please look at the facts, cut through the rhetoric. I know there is strong pressure from interest groups representing the establishment, the education status quo. I know that my colleagues on the Democratic side are great believers in the public school system. But remember those words that I think were spoken by John Gardner, that too often debates are between those who are unloving critics and uncritical lovers. We all love the public school system, but open our eyes, look what is happening here.

Senator KENNEDY earlier in charting progress in the school system in the District of Columbia said in the last period of time the number of uncertified teachers went from more than 50 to 33 percent. Is that a sign of progress? Yes, it is progress. That is why Senator BROWNBACK and I are working with Delegate NORTON and others to bring more money to the District and support General Becton.

But think about the reality. How many Members of this Senate would send their children to a school system in which one-third of the teachers were uncertified, unless they were forced to send them there because they didn't have the money to get them out.

The Senator from California earlier said, gee, let's take this money, and my colleague and friend from Illinois added, let's put it on top, give it to all the kids, instead of just benefiting this relatively small group of 2,000.

The Washington Post said a while ago in an editorial that the D.C. school system is a well-financed failure. So choice here is whether you will put $7 million on top of the more than $600 million we put into the system and better finance the failure instead of giving that money and focusing it on 2,000 kids and thereby giving them the opportunity for a better education and a better life.

The D.C. school system already spends $7,655 a year, more than $1,500 greater than the national average spent, per student in schools, more than $1,000 greater than that spent in the school districts in the neighboring counties of Maryland and Virginia.

The debate is not about whether you are for the public schools. Senator BROWNBACK as the chairman and I as the ranking Democrat have worked very hard with General Becton. Progress is being made. This is a system in which buildings are still deteriorating, are deteriorated, kids are afraid to go to schools, teachers are afraid to come and teach. Half the children are dropping out. The longer they stay in the school system, the worse they do compared to national averages on the standardized tests.

We are saying here on this amendment, while we are all working with General Becton to improve this school system, let's recognize that this is a building on fire and let's get some kids out of those parts of the building on fire to give them a chance to better themselves.

This is not a choice between public schools and private, parochial schools. That is a false choice. You can support this amendment and support the public schools in the District. The true choice here is between preserving the status quo at all costs, which is slamming a door in the face of the parents and children who want to do better, and doing what is necessary to put those children first. In other words, asking whether the status quo of the public education orthodoxy, which is letting down so many children, is so important that we are willing to sacrifice the hopes and aspirations of thousands of children for the sake of a process, not for the sake of the children.

What is the interest of government in education? Not to protect a particular form but to educate our children. That is what this amendment is about. It is not a panacea. We have a lot more work to do. There is a recent independent study of the scholarship program similar to this one in Cleveland, and they found it helped produce enormous academic gains in 1 year. The same is true in Milwaukee.

Also, it will have an effect on this school system in the District, as competition does, to get them to improve what they are doing. Support for choice is growing widely. In a poll, the Joint Center for Political and Economic Studies found support for school vouchers is surprisingly strong. They concluded it has substantially increased in the last year. A majority of African-Americans, 57.3 percent, and Hispanics, 65.4 percent, supported school vouchers.

Mr. President, I want to make a direct appeal to my Democratic colleagues: I don't know why there is only a handful of us who are Democratic Members of this Senate supporting this proposal. This party of ours has been at its best when we have been for opportunity, when we have been for helping people up the ladder of American life—not to give a handout, but to give people a little help, to help them better themselves. That is what this is about. This is not about protecting a status quo, protecting education. Let's focus on human opportunity and the waste of human talent.

In my opinion, voting against this measure, I say with respect, is about the equivalent of voting against Pell grants or the GI bill or child care programs or any of the host of other programs that Democrats, majority strong, proudly I say, have supported this year and over history.

I think we have just become either uncritical lovers of the school system, the public school system, forgetting our primary education to the children who are there, or are being convinced by those who have a vested interest in the status quo that this is somehow, though on its face a good idea, the proverbial camel's nose under the tent. This is a lifeline for 2,000 children who are trapped in a school system where none of us would let our kids be. I don't mean all of it, but in many cases in this school system many of the schools we simply would not let our kids attend. We see it in the wealthiest section of this city. Choice supporters see that 65 percent of the families living in ward 3, the wealthiest in this city, send their children to private schools. Those ministers and children who came to see us from the poorest sections of this city asked us: Is it fair given this indictment of the District of Columbia public schools by the wealthier families and the wealthier neighborhoods for the Congress to force the poor and disenfranchised to attend schools that we would not ourselves?

I appeal to my colleagues. Break out, break free, and let the kids—2,000 of them now trapped in this school system—have the freedom that our Constitution provides them, the opportunity that we try to give them, and a future that is their birthright as Americans.

I thank the Chair. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time on the amendment being expired, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 pending Coats amendment numbered 1249 to S. 1156:

Trent Lott, Dan Coats, Richard Shelby, Mitch McConnell, Connie Mack, Lauch Faircloth, James Inhofe, Alfonse D'Amato, Rod Grams, John Warner, Pat Roberts, Chuck Hagel, Ted Stevens, John McCain, Susan Collins, and Sam Brownback.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 1249, as modified, to S. 1156, the District of Columbia appropriations bill, shall be brought to a close?

The yeas and nays are required under the rules. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—58

Abraham	Gorton	McConnell
Allard	Gramm	Moynihan
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Breaux	Hagel	Roth
Brownback	Hatch	Santorum
Burns	Helms	Sessions
Campbell	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kyl	Stevens
D'Amato	Landrieu	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

NAYS—41

Akaka	Durbin	Lautenberg
Baucus	Feingold	Levin
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Boxer	Glenn	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Byrd	Hollings	Robb
Chafee	Inouye	Rockefeller
Cleland	Johnson	Sarbanes
Conrad	Kennedy	Torricelli
Daschle	Kerrey	Wellstone
Dodd	Kerry	Wyden
Dorgan	Kohl	

NOT VOTING—1

Leahy

The PRESIDING OFFICER. On this vote, the yeas are 58 and the nays are 41.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Indiana is the pending business.

Mr. MACK. Mr. President, I ask unanimous consent that that amendment be set aside.

Mr. COATS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. COATS. 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. LOTT. 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—HOUSE JOINT RESOLUTION 94

Mr. LOTT. Mr. President, after consultation with the minority leader, I ask unanimous consent that the vote occur on passage of House Joint Resolution 94, the continuing resolution, at 2:15 today.

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

Mr. LOTT. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MACK. 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. MACK. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the Coats amendment.

Mr. MACK. I ask unanimous consent the Coats amendment be set aside.

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

AMENDMENT NO. 1253, AS MODIFIED

Mr. MACK. Am I correct that the pending business before the Senate now is amendment 1253?

The PRESIDING OFFICER. The Senator is correct.

Mr. MACK. Mr. President, I have a modification to send to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

Strike all after the word ''section'' and insert the following:

. IMMIGRATION REFORM TRANSITION ACT OF 1997.

(a) IN GENERAL.—Section 240A, subsection (e), of the Immigration and Nationality act is amended—

(1) in the first sentence, by striking ''this section'' and inserting in lieu thereof ''section 240A(b)(1)'';

(2) by striking '', nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigration Responsibility Act of 1996),''; and

(3) by striking the last sentence in the subsection and inserting in lieu thereof: ''The previous sentence shall apply only to removal cases commenced on or after April 1, 1997, including cases where the Attorney General exercises authority pursuant to paragraph (2) or (3) of section 309(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division C, 110 Stat. 3009).''.

(b) REPEALERS.—Section 309, subsection (c), of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division, C, 110 Stat. 3009) is amended by striking paragraph (7).

(c) SPECIAL RULE.—Section 240A of the Immigration and Nationality Act is amended—

(1) In subsection (b), paragraph (3), by striking ''(1) or (2)'' in the first and third sentences of that paragraph and inserting in lieu thereof ''(1), (2), or (3)'', and by striking the second sentence of that paragraph;

(2) In subsection (b), by redesignating paragraph (3) as paragraph (4);

(3) In subsection (d), paragraph (1), by striking ''this section.'' and inserting in lieu thereof ''subsections (a), (b)(1), and (b)(2).'';

(4) in subsection (b), by adding after paragraph (2) the following new paragraph—

''(3) SPECIAL RULE FOR CERTAIN ALIENS COVERED BY THE SETTLEMENT AGREEMENT IN *American Baptist Churches et al.* V. *Thornburgh* (ABC), 760 F. Supp. 796 (N.D. Cal. 1991).—

''(A) The Attorney General may, in his or her discretion, cancel removal and adjust the status from such cancellation in the case of an alien who is removable from the United States if the alien demonstrates that—

''(i) the alien has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3) and—

''(I) was not apprehended after December 19, 1990, at the time of entry, and is either—

''(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the ABC settlement agreement on or before October 31, 1991, or applied for Temporary Protected Status on or before October 31, 1991; or

''(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the ABC settlement agreement by December 31, 1991; or

''(cc) the spouse or unmarried son or daughter of an alien described in (aa) of this subclause and granted relief under this paragraph, provided that the spouse, son or daughter entered the United States on or before September 19, 1990, or the spouse or unmarried son or daughter of a alien described in (bb) of this subclause and granted relief under this paragraph, provided that the spouse, son or daughter entered the United states on or before October 1, 1990; or

''(II) is an alien who—

(aa) is a Nicaraguan, Guatemalan, or Salvadoran who filed an application for asylum with the Immigration and Naturalization Service before April 1, 1990, and the Immigration and Naturalization Service had not granted, denied, or referred that application as of April 1, 1997; or

(bb) is the spouse or unmarried son or daughter of an alien described in (aa) of this subclause and granted relief under this paragraph, provided that the spouse, son, or daughter entered the United States on or before April 1, 1990; and—

''(ii) the alien is not described in paragraph (4) of section 237(a), paragraph (3) of section 212(a) of the Act, or section 241(b)(3)(i); and—

''(iii) the alien is removable under any law of the United States, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(B) Subsection (d) of this section shall not apply to determinations under this paragraph, and an alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (A)(iii) of this paragraph if the alien demonstrates that the absence from the United States was brief, casual, and innocent, and did not meaningfully interrupt the continuous physical presence.

''(C) The determination by the Attorney General whether an alien meets the requirements of subparagraph (A) or (B) of this paragraph is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of subparagraph (B) of section 242(a)(2) to other eligibility determinations pertaining to discretionary relief under this Act.''.

(d) EFFECTIVE DATE OF SUBTITLE (c).—The amendments made by subtitle (c) shall be effective as if included in Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208, Division C, 110 Stat. 3009).

(e) APPEAL PROCESS.—Any alien who has become eligible for suspension of deportation or cancellation of removal as a result of the amendments made by subsections (b) and (c) may, notwithstanding any other limitations on motions to reopen imposed by the Immigration and Nationality Act or by regulation file one motion to reopen to apply for suspension of deportation or cancellation of removal. The Attorney General shall designate a specific time period in which all such motions to reopen must be filed. The period must begin no later than 120 days after the date of enactment of this Act and shall extend for a period of 180 days.

(f) EFFECTIVE DATE OF SECTION.—This section shall take effect one day after enactment of this Act.

Mr. MACK. Mr. President, I ask unanimous consent that Senator REED of Rhode Island be added as a cosponsor of this amendment.

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

Mr. MACK. Mr. President, the amendment I have offered simply clarifies the implementation of last year's immigration legislation in one specific area, the suspension of deportation. Last year's bill imposed stricter standards to obtain suspension of deportation. While this is fine for future applicants, it is unfair to impose new, harsher standards on cases which were already in the pipeline at the time of passage.

This amendment does two specific things: first of all, it clarifies that certain Central American immigrants who

were in the administrative pipeline for suspension of deportation must continue to meet the standards that applied before the immigration reform law took effect. Second, the annual cap on suspensions of deportation would only apply to cases commenced after April 1, 1997.

Without those two changes, we will be changing the rules midstream for a group of people who were attempting to comply with the guidelines for regularizing their immigration status. We encouraged them to come forward and play by the rules and we cannot go back on our word now.

As a way of background, let me lay out some information for the Senate. Starting in the mid-1980's, Nicaraguans, Salvadorans, and Guatemalans fleeing the civil wars in their home countries started coming to the United States. Many of them made asylum claims, many of which were improperly denied as the U.S. Government acknowledged by ordering them readjudicated. In the case of Nicaraguans, this was done through the Nicaraguan review program established by Ronald Reagan. And in the case of Salvadorans and Guatemalans this was done through settlement of the ABC class lawsuit agreed to by the Bush administration.

A huge backlog of asylum claims, however, then prevented their cases from being reheard for many years. Meanwhile, various temporary statuses allowed the members of this group to avoid deportation. In addition, they received authorization to work legally in the United States. During that time many members of that group established strong roots in this country.

Under immigration law, there has long been available a procedure called ''suspension of deportation'' for an individual found to be of good character and who has been here for 7 years to adjust to legal status if deporting that individual would cause ''extreme hardship'' to the person or his or her immediate legal present relative. This requires a case-by-case adjudication that the person being granted this benefit meets the legal standard. Because of the asylum backlog and because conditions in the individual's home country had changed since the filing of their original asylum claims, the Department of Justice under President Clinton encouraged these central Americans to seek suspension of deportation rather than continuing to press their asylum claims or file a new lawsuit.

Again, the point that I am trying to make here in laying out this history is that each step along the way this group of individuals has complied with the rules that existed at the time. In fact, we went to the extent that we encouraged these people to file for suspension of deportation, and it would just be fundamentally unfair at this point if we were to change the rules on these people who in fact have been trying to live by the rules every day that they have been here.

Several other points. The reason why we believe this is important is because we believe that this in essence will deny these people the right to due process under laws with respect to suspension of deportation.

I want to emphasize to my colleagues that this is not amnesty, and there is nothing automatic here. Let us assume for a moment that this amendment were to pass. We are not guaranteeing anybody anything other than the fact that they will have to comply with the rules as they existed at the time they came into the process of suspension of deportation.

Again, I want to emphasize to my colleagues that this is not amnesty. Every person affected by my amendment is merely being given a chance for due process, to have their case heard. They must still meet the criteria to be granted suspension of deportation. In addition, my amendment is focused only upon an identifiable group. There are those who want to create the impression that if this amendment passes literally millions of people, millions of illegal immigrants will use this as a loophole to remain in the country. This is an extremely identifiable group. And, again, working with the INS, we have concluded that there are probably in the neighborhood of 316,000 individuals that would be included in the group, and of that 316,000 it is likely that 150,000 will receive suspension of deportation.

Again, I make the point that we ought to pass this amendment from the perspective of fairness. We should not change the rules midstream for this group of people. It is unfair and, I would make the claim, un-American.

On a personal note, from time to time, I have been asked why I became involved in this issue, and I will tell you that one of the memories that comes back to me is a trip to Nicaragua back in the 1980's where I went to a contra camp, and this was at a particular period of time where the concern was whether the United States was going to continue to provide assistance to those fighting for freedom in Nicaragua. And since they did not have the commitment to those financial resources, thousands of these freedom fighters came back into the camps in northern Nicaragua. I visited them. It was quite a scene—I must say, too, a very emotional scene.

As the helicopter landed, off to the side of the camp two lines were formed, in essence two lines of men in fatigues at attention. As we walked through this group of individuals, where roughly 7,000 to 8,000 freedom fighters were standing at attention, three men, three of the soldiers, with guitars played the Nicaraguan national anthem. It was a tremendously emotional period. In essence I said to them that we will not abandon you, that we will continue to support you in your fight for freedom.

I would make the case that fighting for freedom is not just providing resources to those engaged in battle, or fighting for freedom is not simply standing firm in the U.S. Senate for a strong national defense. But standing firm for the protection of individual rights is, in fact, standing up for freedom. And I encourage my colleagues to support this amendment.

We have encouraged those people over years, not only in their fight for freedom, but afterward, telling them that if they played by the rules they could stay in this country.

Mr. President, again, I encourage my colleagues to support this amendment. It is the right thing to do. It is a fair thing to do. And it would be in the best interests of our country to continue to stand up for freedom for this group of people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am very proud to support my friend and colleague, Senator MACK, in our efforts to include the Immigration Reform and Transition Act, as modified, in this current legislation. It is important that we take this step today, or as soon thereafter as possible. There are thousands of families who are currently in a legal limbo because of the retroactive changes that were made in the immigration laws that were passed in 1996. Senator MACK, Senator KENNEDY, and others have worked to develop a bipartisan, humane solution to give these families the opportunity to remain together—and I underscore the word ''opportunity''—and to continue the lives that they have built in hundreds of our local communities in the United States.

I can tell you from personal knowledge and experience and relationships, that the people to whom this amendment is primarily directed are, in the overwhelming number, hard-working, tax-paying, law-abiding individuals who have followed every rule and regulation since they have been resident in the United States and are making a contribution to the development of our country. Since the 1996 retroactive immigration bill passed, with the consequences that Senator MACK has just outlined, these families have lived in fear, fear of being uprooted and torn apart, and fear that all of their hard work in the United States will be for naught. We now have the chance to act and ease these fears.

The thousands of people we are seeking justice for have human faces. They are not just statistics, they are not just theories in an Immigration Act. I want to submit for the RECORD, stories that mention the human dimension of this important amendment. Also, I ask unanimous consent to have printed in the RECORD, editorials in support of the actions we are urging today.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Mar. 4, 1997]

DEPORTATIONS WITHOUT CAUSE

Once again the United States has thrown up a hurdle to stymie immigrants who have legitimate grounds to stay in this country. A recent ruling by the Board of Immigration Appeals could send packing tens of thousands of Nicaraguans, Salvadorans, Mexicans, and others who have lived in this country for years.

The case before the board involved a Nicaraguan woman from Miami who had been served deportation orders. Like any number who fled Nicaragua during the 1980s, she sought legal status under immigration rules that offer relief to those who, among other criteria, have been in the United States for at least seven years. The board rule 7–5 that she was ineligible for relief, however. It interpreted the new Illegal Immigration Reform and Immigrant Responsibility Act to mean that her time in the United States ended when she was served a summons called an ''Order to Show Cause.'' Though physically she had resided and worked in the United States more than the required time, the board said, officially she did not meet the seven-year criteria for suspending her deportation.

Ernesto Varas, the woman's attorney, is one among many who dispute that legal interpretation. He now plans to take the case to the 11th U.S. Circuit Court of Appeals. Meanwhile, there is little comfort for those living under threat of deportation. The INS, which is still mulling the Immigration Board ruling, doesn't offer an estimate of how many may be affected. In South Florida, estimates range from 20,000 to 75,000 possible deportees. The prospect alarmed even Nicaragua's National Assembly, which argued in a letter to the U.S. Congress that its economy is in no shape to absorb such an impact.

Alternatives to deportation *should* be sought. Particularly for Nicaraguans, who sought refuge from the Sandinista regime in the country that financed the war against the Sandinistas. Deportation would mean unjust hardship for folks who have lived here peaceably for years, such as Nicaraguan Juan Sorto of Fort Lauderdale. As reported by Mabell Dieppa in El Nuevo Herald, Mr. Sorto entered the United States from Mexico on Jan. 2, 1987. Served with an Order to Show Cause the same day, he may not qualify for relief from deportation—even though the INS released him on bail and issued him work permits, and even though he has paid taxes and supported his three U.S.-born children for 10 years here.

Attorney General Janet Reno should keep in mind Mr. Sorto and contradictory U.S. policy and review the Immigration Board's recent ruling along with its implementation by the INS.

[From the Miami Herald, May 22, 1997]

DEFENDING THE INDEFENSIBLE

It's bad enough that Congress passed the immoral illegal Immigration Reform and Immigrant Responsibility Act, now in effect. It's worse that the U.S. Immigration and Nationalization Service is incapable of enforcing this law with any measure of commonsense or consistency. It's worse still that the highest immigration court misinterpreted—forcing the INS to misapply—the law so that overnight tens of thousands of Nicaraguans and other longtime immigrants became deportable aliens.

But worse of all, what's happening now in U.S. District Court in Miami is simply reprehensible: The federal government is using its full weight to try to keep those immigrants from having their deserved say in court.

The Nicaraguans are suing the government in a class-action suit representing some 30,000 to 40,000 immigrants who could qualify for legal status if not for the retroactive application of a provision in the new law. Under that provision, immigrants we were served ''show-cause'' papers by immigration authorities before their seventh year in the United States no longer qualify for relief from deportation.

Senior U.S. District Judge James Lawrence King heard testimony for two days last week and temporarily barred the deportation of those immigrants. U.S. attorneys argued that under the new law, federal courts do not have jurisdiction in these immigration cases. The government's argument ''would require the court to rule that there is simply no remedy available for the 30,000 to 40,000 Nicaraguan refugees and others who have sought suspension of deportation. The court declines to do so,'' ruled Judge King. Well done, and well said.

Unbelievably, however, government lawyers are still battling to keep the immigrants from their right to a hearing. Why? Because their testimony would form a factual record on the merit of their claims for an appellate court to review. Congress is empowered to limit courts' jurisdiction, Judge King wrote. But it can't deny courts their power to review constitutional questions.

To his credit, Judge King has called the government lawyers' bluff. He ordered them to produce thousands of pages of documents to the immigrants' lawyers by tomorrow. He ordered INS Commissioner Doris Meissner and other officials to appear in his court on Saturday and Monday for depositions. And he set a hearing on a temporary injunction for next Tuesday.

Now it's the government's move. Could it just make too much sense to stop wasting tax dollars trying to deport productive, taxpaying, longtime immigrants without due process, a hearing to which they're entitled? We'll soon see.

[From the Ft. Lauderdale Sun-Sentinel, June 26, 1997]

RENO SHOULD BACK JUDGE'S RULING, HELP NICARAGUANS TO STAY IN PEACE

It's temporary reprieve, but a welcome and justifiable one, for 40,000 Nicaraguans who were about to be deported from this country. In a lengthy ruling, dripping with anger at the government and packed with compassion for hard-working immigrants, U.S. District Judge James Lawrence King blocked their deportation at least until a trial can be held in January.

Their deportation orders should be revoked permanently. Nicaraguans who fled to this country in the 1980s as refugees from their country's bloody civil war, in which the United States was deeply involved, were at first helped by the Immigration and Naturalization Service to get work permits and find jobs.

As King pointed out, the Nicaraguans then established homes, married, had children and grandchildren, started businesses, paid taxes, obeyed our laws and contributed to their communities. In return, INS changed the rules in midstream and tried to deport them to their native land.

That's unfair and unacceptable. ''Their hopes and expectations of remaining in the United States were raised and then dashed'' by INS' change in policy, King said, and if they're deported they'll be separated from their children and irreparably harmed.

King's ruling in Miami was gutsy and appropriate. It lashes at the INS for misinterpreting a new immigration law and for luring tens of thousands of Nicaraguans to apply for suspension of deportation—and pay a fee—while knowing full well Congress was considering eliminating that right of suspension.

The Nicaraguans, stung and frightened by unfair government treatment in a nation supposedly built on fairness, have gone underground, or pulled their children from school, or decline to come forward for medical treatment. One Nicaraguan child, cited by King in his ruling, died when his parents refused to bring him to a hospital for treatment.

The Nicaraguans thought, not without some validity, that by appearing in public they would be picked up and deported. That's perhaps the saddest story, with the most painful lesson to emerge from this debacle: Come forward voluntarily, and some U.S. government agent could send you packing, leaving your American-born children behind.

The best way to end this deeply embarrassing episode is for Attorney General Janet Reno, one of the defendants, to convince her boss, President Clinton, that the new immigration law has been misintepreted. Then the INS should slink away, and let the Nicaraguans live in peace, in what Judge King referred to as ''a nation renowned throughout the civilized world for justice, fairness and respect for human rights.''

Mr. GRAHAM. Mr. President, I am working today to offer fairness and justice for a woman who lives in Miami. She is 86 years old. She and her family came to America, encouraged by the U.S. Government to do so in 1984. Without this amendment, she faces almost certain deportation back to Nicaragua. With this amendment she has the chance, the opportunity to apply to be considered on her own individual merits, based on her length of residence in the United States and her contributions since she has been in this country, to stay in the United States on a permanent, secure basis.

I also speak on behalf of an 18-year-old student at Coral Park High School in Miami. This student's parents fled Nicaragua when he was 7 years old. His family was allowed to stay under the old law, and now he may be forced back to a country with which he has almost no connection.

These two examples, an elderly lady and a young man, are examples of the people to whom we are attempting to apply fundamental fairness, to give them the opportunity to apply on their own merits, on their own records in this country, for a legal, permanent status. These families have been in our Nation since the early 1980's, since our Government encouraged them to flee Communist oppression and civil unrest in Central America. Speaking specifically to those who have come from Nicaragua, they fled a nation which had been taken over by a Communist regime, which was supported by the then-Soviet Union. In one of the last of those cold war confrontations in a third country, between the Soviet Union and the United States, the United States encouraged those Nicaraguans to leave, to come and to participate in the effort, which was finally successful, to restore democratic government to Nicaragua.

Mr. President, 15 years after they came at our request, they own their

own homes, they have U.S. citizen children, they have opened up small businesses, they have become flourishing entrepreneurs. Now we have changed the rules and threaten to divide families. This massive upheaval would be detrimental, not only to the individuals affected, but also to Central American nations that would be forced to absorb thousands of new residents. This action, taken in 1996, if not modified by this amendment which Senator MACK, Senator KENNEDY, and I are proposing today, would have adverse effects on U.S. interests in this important region. It would have a destabilizing effect today. It would have an even greater impact in the future, when, God forbid, we were ever in another situation as we were in Nicaragua in the early 1980's. How could the United States with any credibility call out to the people of that country to resist the actions of governments which were antithetical to U.S. interests?

I believe the honor of the United States of America is at stake in this amendment that we offer today. I emphasize, as Senator MACK has so effectively done, that this is not an amnesty program. We are not stating that all of these people who meet the standards covered by this amendment will become permanent residents, or have any other legal status in the United States. What we are saying is that under the rules that applied at the time they came into this country, at our invitation, they will have the right to apply. They will have the right to apply to receive permanent residence. It will then be their obligation to meet the standards to justify a permanent status in the United States. That is fundamental American fairness.

By adopting this amendment and by recommitting ourselves to that standard of fairness and justice, we will be sending a strong message, that we will support the foreign policy objectives that led to our call in the first instance. We will be sending a strong message that the United States of America believes in playing by the rules and not changing those rules in midlife.

These families deserve that message of fairness. They deserve it now. They fled persecution and communism to seek a safe haven in our country. They assisted our country in restoring democracy to their country. We must not abandon them now.

Mr. President, I yield back my time to my colleague, Senator MACK, and also to Senator ABRAHAM, for further comments on this issue. Thank you, Mr. President.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Michigan.

Mr. ABRAHAM. Thank you very much, Mr. President.

I rise today to speak in support of the amendment offered by the Senators from Florida. This may be a somewhat unusual occurrence in the Senate, because it is often the case that individuals who chair authorizing committees, in this case the Immigration Subcommittee which I chair, frequently are at odds with Members who seek to use appropriations bills as vehicles for substantive legislation.

So I wanted to come down today to speak on behalf of this amendment and to explain it a little bit, both why I am not here in opposition on the basis of the process we are using, and also why I support doing something at this time along the lines outlined in the amendment.

First, Mr. President, let me just indicate that a number of us have been working for some months to try to resolve the issues that are addressed by this amendment. We are working with our House counterparts. We will continue to work, even as we move forward in the Senate today, to try to find an ultimate solution.

At the same time, though, time is of the essence. There is a sense of urgency, I think a growing sense of urgency, among a number of Members, as expressed by both the Senators from Florida, as well as in my case and probably other Members as well, because the impact of the 1996 immigration legislation is slowly but surely coming into effect. The people who may or may not be affected by that legislation, depending on the various decisions to be made by the Department of Justice and the courts, are living on a day-to-day basis under the threat of the prospect of deportation. It seems it is in everyone's interest, but it is also in the interest of fairness for these individuals, for us to try to take legislative action to resolve and address these matters once and for all.

Both Senators have already talked at some length about the chronology of circumstances that brings us here today. I won't go into all the detail, nor do I have the sort of personal, first-hand experience of having served in the Senate or the Congress at the time many of these issues were previously debated. I am a late arrival to the debate, and I am more an observer of the circumstances that took place in Central America than a participant.

Those were significant times, Mr. President. The civil wars of the 1980's in El Salvador, in Guatemala, and Nicaragua were integrally related to the national security policy of our country, as well as our views with regard to America's role in our hemisphere.

Throughout the 1980's and into the early 1990's, El Salvador lived through a brutal civil war which left tens of thousands of people killed, over a quarter of the population driven from their homes and the economy in shambles. Hundreds of thousands of Salvadorans made their way to the United States seeking asylum out of fear of being killed by the military, the leftist guerrillas or the extreme right death squads. In fact, from fiscal year 1981 to fiscal year 1991, approximately 126,000 Salvadorans applied for asylum. That was a quarter of all our asylum applications in that timeframe.

Meanwhile, similar events took place in Guatemala. Approximately 42,000 Guatemalans applied for asylum in the United States.

Meanwhile, the civil war in Nicaragua in the 1980's also prompted actions of a similar nature. As you know, Mr. President, during the 1980s, there was a war between the Communist-influenced Sandinistas, who controlled the government at the time, and groups seeking to overthrow that government. These groups ultimately were supported by the U.S. Government and became known as the Contras. The war drained the Nicaraguan economy, which was battered as well by a United States embargo on trade and a series of natural disasters. Approximately 126,000 Nicaraguans applied for asylum in the United States from 1981 to 1991.

What happened when these various people came to our country was somewhat different than what happened to others who have come here. First of all, many of these people were, in one form or another, either asylees or invitees. Indeed, the actions with regard to the Nicaraguans in particular suggests that the American Government was actively promoting the notion that those Nicaraguans, fearful of the outcome of these uprisings, come to America. The extended voluntary departure program, which was granted by our Attorney General, was a form of temporary protection from deportation granted under the discretionary authority of the Attorney General.

When that program, which began in 1979, expired, it was extended further through a variety of other congressional actions and administrative actions. In 1987, the Reagan administration established the Nicaraguan Review Program. The NRP provided an extra level of review to Nicaraguans denied asylum. The Attorney General, taking into account a new Supreme Court decision bearing on standard of proof for an asylum applicant to show fear of persecution, encouraged Nicaraguans to reapply for asylum under the new standard and instructed the INS to conduct outreach in Nicaraguan communities and to issue work permits to Nicaraguan applicants as soon as they applied for asylum under the new standard.

When that program ended in 1995, the INS published a notice announcing the termination of the program. Instead of facing deportation, however, under a phaseout program, Nicaraguans were encouraged to reopen their deportation cases and apply for suspension of deportation, for which they were told they may be eligible if they had been in the United States continuously for 7 or more years.

The point of my statement with respect to Nicaraguans, and a similar set of circumstances as pertains to the Salvadorans and Guatemalans, is that during this period, Mr. President, in the 1980's, this country actively encouraged people fearing persecution,

fearing death squads, fearing disruptions of their communities to come to America. Then we took extraordinary measures to make it feasible for them to stay here, even those who had been denied asylum through the official asylum-seeking procedures.

All of this transpired, Mr. President, prior to the passage of the 1996 immigration bill. At that point, things changed. Here I think it is very important to understand some of the legal circumstances that changed.

Prior to the passage of the 1996 bill, if someone had been in this country for a period of 7 years or more, they were permitted to seek suspension and adjustment of their status from being in illegal status here or being here under one of the special programs for the Central Americans. Extensions were given to the Central American communities I have mentioned to allow them to stay here long enough to apply for these programs.

Detrimental reliance on their part occurred under the belief that if they continued to follow these programs, they would be given their day in court and given a fair adjudication of their status, and that is what transpired.

At every step of the way, either through an act of Congress or through an act of the executive branch, these individuals were given, I think, a very clear signal that they would be able remain if they played by the rules that were then existent: That if they stayed for 7 years and proved themselves to be of good moral character, they would be given an opportunity to have a full adjudication of whether or not any process to deport them would be suspended and whether or not they would be given a green card and a chance to stay permanently.

However, the 1996 bill changed the rules under which this would be permitted. In my judgment, Mr. President, it was not the intent of Congress to have this 1996 legislation retroactively apply to the people in these circumstances. I believe that Congress tried to avoid changing the standard retroactively.

We specifically provided that, generally speaking, the old rules are supposed to be applied to people in deportation proceedings before April 1, 1997, the effective date of the act. The problem is the INS has interpreted the act as saying that many of the Central Americans were not in deportation proceedings before that time and, hence, it has to apply the tougher new standards to them.

Now, the basis on which this determination was made by the INS, I believe, Mr. President, is extremely subject to question. I think it is an extremely difficult case to make that the group that the INS has argued were not in proceedings as of April 1, 1996, truly were not in proceedings. I believe they acted exactly as they had been told they should act, to qualify for the adjudications I have mentioned. But for whatever reason, the INS has concluded that, as to them, we will retroactively change the rules.

Let me talk about what those rule changes would be. First, as opposed to being required to be in the country for 7 years, the requirement was changed to 10 years, meaning an additional 3 years before one could even seek to have their status cleared. In addition, the standard to be used in such adjudications was made much more difficult. In other words, the standard that people had been promised they would be judged by for all the years they were here was altered and made a much tougher standard retroactively after they had stayed longer, after they had detrimentally relied on the assurances they had been granted with regard to whether or not they would be given a hearing, and after they had been told what they had every reason to expect was the basis on which the relief would be granted.

Furthermore, based on a judicial decision made within the immigration courts, the clock was stopped with respect to the accrual of time toward the 10-year standard, or, for that matter, the old 7-year standard, because it was determined as soon as the individuals had received so-called orders to show cause, the clock would stop.

Mr. President, these are obviously fairly complicated legal terms, and I will try to simplify them here for purposes of this discussion. The rules were changed in the middle of the game to the detrimental reliance of literally thousands of individuals who had been waiting and playing by the rules and, in most cases, had actually made themselves available for this process by coming forward in response to requirements that had been in the earlier legislation that had set the process in motion.

Now they had a choice when the earlier legislation was passed. They could have disappeared into the country, never subjected themselves to the process, and been totally immune from any deportation unless they were somehow discovered. Alternatively, they could make themselves available, accept orders to show cause, subject themselves to the process under a standard they believed would remain in place until they had their trials, and then either be able to stay or be required to leave based on a fair adjudication.

For the people who played by the rules, the second group, the rules are now being changed. They will be disadvantaged as opposed to the people who did not play by the rules. To me, Mr. President, that would be a complete and catastrophic mistake for us to make. It has to be addressed in the interests of fairness.

Now, there is another thing that has changed that I will also mention in the bill that was passed in 1996, a limit, a cap of 4,000 suspensions and adjustments per year was placed and put in force. I believe it was put in force at that level because it was the view of the drafters of the legislation that 4,000 would be adequate to meet the amount of such suspensions and adjustments of status that would be granted by the reviewing boards, the immigration courts. I believe that 4,000 figure was recommended by the Immigration Service because it was never contemplated that it would be applied to those who are in this category of Central Americans we are trying to address today because this category is a much larger group. They will consume more than 4,000 adjustments per year, because at least that many and probably as many as 7,000 or 8,000 more per year will meet the standard and be permitted to stay.

The cap now in place has the perverse effect of literally putting people in a position where if they somehow meet the 7- or 10-year standard, if they somehow meet the adjudicatory standard of whether or not they will be permitted to stay if the 4,000 cap is reached, they will still be deported. Now, I can't imagine that that was the intent of the drafters, and I can't imagine, frankly, Mr. President, it would be sustained in the Federal court system. I believe it is one of a variety of problems that now exists and which will be effectively addressed by Senator MACK's proposal.

To summarize what these problems are, there are the constitutional issues that I think will arise. The due process question is whether the standards could be changed in the middle of the game and applied retroactively. We have the problem of this cap, which potentially creates the absurd circumstance I just described where people who have been adjudged to be able to stay in the country are still deported because the 4,000 limit has been reached. We have the anomaly I have described where those people who were trying to play by the rules, who subjected themselves to the process in response to legislation we passed, would suddenly find themselves in a disadvantaged position as opposed to those who never played by the rules in the first place. And what we have, in effect, is a circumstance that I describe as bait and switch. We encouraged people to come forward, to make themselves available for the adjudicatory process, and once they do, based on this interpretation of the 1996 bill, we have now changed the standard by which they will be subjected and changed whether or not even if they successfully meet a standard, they will be allowed to stay.

For all those reasons, I think we really have to do something in the short run, not wait any longer. I think the bill offered by Senator MACK makes sense, and it is consistent with the long history of America's response to the Central American community and to the struggles of the 1980's. For that reason, as I said at the outset, although it is a little bit unusual for an authorizing committee chairman to come down to the floor to support the inclusion of legislation within their sphere on appropriations, I support this

legislation and look forward to working with other Members—if we are going to pass this—work both with the Senators as well as with our House colleagues to try to ultimately reach a solution that is satisfactory to everyone affected.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I want to thank Senator ABRAHAM not only for his eloquent statement but also his understanding of the matter of why we have ended up in this situation of having to deal with this issue on an appropriations bill. Again, I appreciate both your effort and your staff's effort over this last week or 10 days to try to keep making the effort to see if there was some way we could come to some agreement that would not have to put the Senate through this debate. So again, your counsel was invaluable, and I appreciate your presence on the floor as the chairman of the Subcommittee on Immigration of the Judiciary Committee. It is very meaningful to have your support, and we thank you very much.

Just a couple of other comments, Mr. President. I wanted to indicate some of those who are supportive of this legislation. I have a letter from Empower America that is signed by Jeane Kirkpatrick, former Ambassador to the United Nations; Jack Kemp, former Member of Congress and former Secretary of HUD; William Bennett, former Secretary of Education; Lamar Alexander, former Secretary of Education; and Steve Forbes. All of them are supporting the legislation, making some of the same points that have been made already in the debate this morning. They urge support of the bill.

''We urge you to join in standing in solidarity with free people and democratic governments of our Central American neighbors and friends.''

The point they stressed in the letter is that the Central American countries, who, in essence, we went to bat for in the 1980's to protect democracy and to move them toward freedom and capitalism, today are still struggling in that battle. To send several hundred thousand individuals back into an environment, for example, in Nicaragua, where the unemployment rate is 60 percent, would destabilize those countries, which would be just the opposite of the effort that we made in the 1980's.

Again, I appreciate their letter and their support of this legislation. To give you a sense of the range of support, my colleague from Florida mentioned several editorials. I don't want to duplicate those editorials, but I ask unanimous consent that letters from Empower America and the National Restaurant Association be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EMPOWER AMERICA,
Washington, DC, September 29, 1997.

Hon. TRENT LOTT,
U.S. Senate,
Washington, DC.

DEAR SENATOR TRENT LOTT: In the 1980s, we stood in solidarity with the people and governments of Central America who struggled for democracy and peace when threatened by expanding Communist violence and influence. We stand in solidarity with them today, as they work to consolidate democracy and free market economies.

Central America's struggles of the last decade caused thousands of Central Americans to flee to the United States. These Central American refugees have tried to comply with U.S. laws and with the immigration requirements which governed their presence in this country. These rules and understandings have now been changed retroactively and unfairly. Our Central American friends living in the United States now face unexpected and unjust deportations, and their countries of origin will face destabilization. Central America will not be able to simultaneously absorb influxes of large numbers of people being forcibly deported and the deprivation of family remittances that have bolstered these struggling economies.

The ex post facto legislation under which Central Americans in our country are threatened with deportation undermines and violates our principles and one of President Reagan's most cherished legacies—a stable and free Central America.

Senator Connie Mack has introduced the Immigration Reform Transition Act, S. 1076, legislation which will rectify this unfortunate situation. We urge you to support this bill. We urge you to join us in standing in solidarity with the free people and democratic governments of our Central American neighbors and friends.

Sincerely,

JEANE KIRKPATRICK.
JACK KEMP.
WILLIAM BENNETT.
LAMAR ALEXANDER.
STEVE FORBES.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, September 23, 1997.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the National Restaurant Association and the 787,000 restaurants nationwide, we urge you to support bipartisan immigration legislation that will provide relief for many hardworking members—employees—of the restaurant industry.

First, we urge you to support permanent extension of Section 245(i) of the Immigration and Nationality Act as part of the Fiscal Year 1998 Commerce, State, Justice Appropriations bill. Section 245(i), which sunsets on September 30, 1997, enables certain restaurant employees who are eligible for permanent resident status to remain in the United States while their application for a ''green card'' is being processed. By definition, these are employees who are outstanding in their field or for whom no U.S. worker is available. Many families and businesses will be disrupted if these employees are forced to return to their home country to wait for paperwork.

Second, we urge you to support bipartisan legislation, H.R. 2302, introduced by Rep. Lincoln Diaz-Balart (R-FL) and S. 1076, introduced by Senators Connie Mack (R-FL) and Edward Kennedy (D-MA). In 1996 Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which made many important immigration reforms. However, one provision would apply new standards and restrictions retroactively, making it much more difficult for certain immigrants—who are residing in this country legally—to get relief.

Most affected by the provision are thousands of Central Americans from El Salvador, Nicaragua, and Guatemala who have been in this country legally under temporary protection from deportation while civil wars in their countries made it dangerous for them to go home. These refugees, having lived and worked here for at least seven years, are eligible to remain in the U.S. permanently. The 1996 Act changed the rules of this relief. H.R. 2302 and S. 1076 would prevent the new rules of IIRIRA from being applied to cases that were ending when the law went into effect on April 1, 1997.

Thank you for your consideration and support.

Sincerely,

ELAINE Z. GRAHAM,
Senior Vice President,
Government Affairs and Membership.
CHRISTINA M. HOWARD,
Senior Legislative Representative.

Mr. MACK. Mr. President, I ask unanimous consent that editorials from the Miami Herald, New York Times, and Washington Times be printed in the RECORD, also.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Sept. 3, 1997]

FIX CRUEL IMMIGRATION LAW

Fresh from summer recess, Congress returns this week to tackle substantive issues anew. One that it needs to address is the plight of longtime immigrants who unjustly face deportation because of an unfair, un-American law.

Enacted by the same Congress that brought you anti-immigrant welfare reform, a new 1996 immigration law denies the chance to gain legal status to hundreds of thousands of Central Americans and others who have lived peaceably in the United States for years. Some of the new law is so shameful that Senior U.S. District Judge James Lawrence King, in a class-action suit in Miami, has ruled that it violates the due-process rights of some 40,000 Nicaraguans with more than seven years in this country.

After Judge King forbade the Immigration and Naturalization Service to deport these class members, Attorney General Janet Reno commendably extended the same protections nationwide to cover an estimated 150,000 Savadorans and 80,000 Guatemalans as well. These people also fled U.S. supported civil wars in their homelands during the 1980s. Many have been issued work permits repeatedly and have established families and businesses. They send billions of dollars to loved ones back in their homelands, helping keep struggling economies afloat and dampening illegal immigration to the United States.

Unjust immigration law should be corrected. To their credit, a number of legislators have submitted various proposals with that intent, the best of which was authored by U.S. Rep. Lincoln Diaz-Balart, R-Miami. An administration-backed bill, proposed by Sens. Bob Graham, D-Miami Lakes, Connie Mack, R-Cape Coral, and Edward Kennedy, D-Mass, removes a retroactive ''stop-time'' rule that unfairly prevents many longtime immigrants from gaining resident status. But an onerous provision that denies immigrants judicial review is most offensive and quite possibly unconstitutional.

Under Mr. Diaz-Balart's legislation, immigrants in deportation proceedings before the new law went into effect last April 1 would rightly qualify for relief under previous, more-favorable rules. The same would apply to Nicaraguans, Guatemalans, and Salvadorans who filed asylum claims before April

1990; many of them have been hurt by tremendous INS backlogs. (It would be better if the asylum provision extended to Haitians and others immigrants, too). Folks covered by the bill also would be exempt from a arbitrary cap that limits to 4,000 the deportations that may be canceled annually.

Much as its earlier budget legislation restored significant welfare benefits to legal immigrants, let Congress now reverse a cruel immigration law's punitive provisions.

[From the New York Times, Sept. 29, 1997]

FLAWS IN IMMIGRATION LAWS

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is a morass of technical complexity that has yet to be fully explicated by either the law's drafters or the immigration officers who are supposed to carry it out. But it is already apparent that at least two elements need immediate correction.

One provision unfairly punishes refugees from Nicaragua, El Salvador and Guatemala who fled civil wars in the 1980's and were given temporary protection from deportation. Under prior law, these refugees, totaling abut 300,000 could have become permanent residents by showing that they had lived here for seven years and had good moral character, and that deportation would cause them and their family members extreme hardship. The 1996 act increased the residency requirements to 10 years, eliminated hardship to the refugee himself as a basis to fight deportation and limited the number of immigrants who could seek permanent residency through this avenue to 4,000.

These Central Americans played by an earlier set of rules endorsed by both Republican and Democratic administrations, but are now being unjustly penalized. The White House supports, and Congress should pass, a bill introduced by Senator Connie Mack, a Florida Republican, that would exempt this group from provisions of the new law, allowing the prior legal standards to apply.

A second provision would actually encourage illegals to stay underground rather than risk going abroad, as they might soon have to, to obtain immigrant visas. The new law imposes a three-year bar to re-entry on illegals who leave the country today and a 10-year bar on those who leave after April 1. If a key provision in current immigration law is allowed to expire tomorrow, as scheduled, illegals will have to return to their home countries to obtain permanent visas.

Under the current role, people who qualify for permanent residency can have their applications for immigrant visas, or ''green cards,'' processed here rather than through American consulate in their home countries. This does not give them any preference. But it reduces paperwork at consulate offices abroad, and generates $200 million a year in revenues from applicants who pay $1,000 each to have their papers processed here.

The Senate has voted to make the provision permanent, but the House is expected to vote only on a three-week extension. If Congress does not renew the provision, hundreds of thousands of people will have to go abroad for green cards. Thousands who have met the criteria for permanent residency but are technically illegal in status would be barred from coming back for years.

Fighting illegal immigration is a difficult and important job. But Congress should do it in a way that will deter illegal entry at the border. Deporting Central American war refugees and those who are on the verge of getting green cards will not achieve that goal.

[From the Washington Times, Aug. 22, 1997]

RIGHTING AN IMMIGRATION WRONG

Back in the 1980s when communist regimes and insurgences swept through Central America, it was clear to many here that those nations were badly in need of help. The Reagan administration took up the cause of the Contras in Nicaragua, offered support for the beleaguered government of El Salvador, even invading Grenada to prevent communism from gaining foothold in the hemisphere. Despite the best efforts of Democrats to undermine the effort, it was a remarkably successful policy. Today, democracy dominates the region, and economic reconstruction is taking shape.

But there is one forgotten chapter of the story, which could have a less than happy ending. That's the over 300,000 refugees from El Salvador, Nicaragua and Guatemala, who ended up in the United States, fleeing persecution, danger and poverty in their home countries, victims of forces far beyond their control.

The status of the refugees was not exactly legal, but not exactly illegal either. They were granted various forms of temporary protection from deportation, which in accordance with the law would become permanent if certain conditions were met: seven years of continuous residency, a record of good behavior, and proof of hardships awaiting in their native countries. As a consequence, the refugees settled, had children, many becoming a part of the U.S. workforce that Washington knows very well indeed, the nannies, housekeepers and gardeners that so many have come to rely on.

That was until the 1996 Immigration Act changed everything—and did so retroactively. Aimed not so much at the Central Americans but at deterring new refugees, the law capped the number of grantees at 4,000, changed the conditions, and mandated immediate deportation of those who were rejected. To obtain what is now known as ''cancellation of removal,'' a refugee must now have been in the country for 10 years, show good character and demonstrate ''extreme or exceptional hardship'' to a U.S. citizen or resident, be that a spouse, child or parent—but, oddly, not the refugee himself.

Also, the clock ''stops ticking'' on those 10 years, the moment the INS removal proceedings start. That means that if you applied in good faith after your seven years in the country (as per the 1986 law), and got rejected for having accumulated too little time (in accordance with the 1096 law), you would now be out of luck because you could not accumulate more time. If this sounds Kafkaesque, it's because it surely is.

About 1,000 people were deported before the outcry from the Latin American community and the governments in the region caused the Clinton administration to reverse course. On July 10, Attorney General Janet Reno vacated a Board of Immigration Appeal's decision in a test case, and the deportations were halted, though last week one Nicaraguan was deported, the first since the attorney general's decision. Bills in the House and Senate will be taken up when Congress comes back to fix the unintended consequences of the 1996 Immigration Act and to grant relief from the 4,000 annual cap. All the refugees want is a hearing based on the conditions at the time when they were granted temporary stay—in other words eliminate the element of retroactivity in the law, which indeed only seems fair.

But there is not only the refugees to think of here. If we want the fragile economies of Central America to recover, governments in the region will need breathing space. Nicaragua, for instance, has an unemployment rate of 60 percent and cannot afford to absorb its 250,000 refugees in the United States. Nor indeed can the country afford to do without the remittance sent by Nicaraguans here to their families at home. In other words, giving the Central American refugees the fair shake they deserve will also mean giving their countries a chance to stabilize, which, after all, has been the aim of the U.S. policy deal all around, for them and for us.

Mr. MACK. Again, I mention those particular editorials because I think it gives you a sense of the range of support, both Democrat and Republican, from conservative to those considered liberal, who support our action and support this amendment.

Mr. President, there are several things I need to do.

I ask unanimous consent that Senator SANTORUM be added as an original cosponsor.

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

Mr. MACK. Mr. President, just to close this portion of the debate, there may be some that are saying, why are we doing this now? I ask people to try to put themselves in a position of a group of people who have, in fact, played by the rules, as was so eloquently laid out by Senator ABRAHAM, and now there is the great potential that the rules could be changed on them and they would be denied due process. That is fundamentally wrong.

I want people to think about what it must be like to wake up each morning and wonder whether you are going to be one of those that will be the subject of deportation. Think about the fear that must be going through that family, that mother or father, when that child goes off to school that afternoon or that morning. What is going to happen? Are they going to receive a notice of deportation? I know that our Nation does not want to impose that kind of fear on people. That is counter to everything that we believe.

So again, I ask those who have listened to this debate and will be voting to vote in favor of this amendment.

Mr. KENNEDY. It is a privilege to join Senator MACK and Senator GRAHAM in offering this amendment on behalf of Central American refugees. The amendment we propose today closely parellels S. 1076 the Immigration Reform Transition Act of 1997 proposed by President Clinton, which we introduced on July 28.

Without this legislation, thousands of Central American refugee families who fled death squads and persecution in their native lands and found safe haven in the United States would be forced to return. Republican and Democratic administrations alike promised them repeatedly that they will get their day in court to make their claims to remain in the United States.

Last year's immigration law, however, turned its back on that commitment and treated these families unfairly. This legislation reinstates that promise and guarantees these families the day in court they deserve.

Virtually all of these families fled to the United States in the 1980's from El Salvador, Nicaragua, or Guatemala. Many were targeted by death squads and faced persecution at the hands of rogue militias. They came to America

to seek safety and freedom for themselves and their children.

The Reagan administration, the Bush Administration, and the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. They were promised that if they have lived here for at least 7 years and are of good moral character, and if a return to Central America will be an unusual hardship, they would be allowed to remain. Last year's immigration law violated that commitment.

President Clinton has promised to find a fair and reasonable solution for these families, and the administration will use its authority to help as many of them as possible. But Congress must do its part too, by enacting this corrective legislation.

Some are opposing this legislation as an amnesty for illegal aliens. That charge is false. It is an insult to these hard-working refugees, and their families who have suffered so much pain and hardship and who relied in good faith on the solemn promise they were given.

Virtually all of these families are already known to the Immigration and Naturalization Service. They are not illegal aliens working underground. These families have applied to come to the United States under INS programs, and they are here on a variety of temporary immigration categories. They have acted in accord with what our Government told them to do.

Not all of these families will qualify to remain here under the terms of this amendment. They still must meet certain standards that existed in the law, before last year's immigration law was enacted and applied retroactively. The Immigration Service estimates that less than half of those who qualify to apply to remain in this country will be approved.

These families are law-abiding, taxpaying members of communities in all parts of America. In many many cases, they have children who were born in this country and who are U.S. citizens by birth. They deserve to be treated fairly, and I urge the Senate to support the amendment.

Mr. KYL. Mr. President, I will not raise a point of order against Senator MACK's amendment. Though I continue to have numerous concerns about the proposed measure, it has been improved since the original Clinton administration proposal was offered.

I am supportive of allowing those Central Americans who came to this country during the 1980's in order to flee persecution, and other forms of danger, to have the opportunity to apply for relief from deportation under the suspension of deportation application rules that existed prior to the passage of last year's immigration reform bill.

During the 1980's thousands of our neighbors from El Salvador, Guatemala, and Nicaragua came to this country to escape civil war. These individuals were granted temporary protected status [TPS], and were allowed to stay in the United States and work because of the foreign policy issues at hand.

During such time, these Central Americans should have been afforded a proper opportunity to have asylum applications processed, but some were denied this opportunity. As a result, these individuals, made up of Salvadorans and Guatemalans who are sometimes referred to as the American Baptist Churches [ABC] case group, were given another opportunity to have their asylum cases heard. This group is also comprised of Nicaraguans who participated in the Nicaraguan Review Program.

If such asylum applications were denied, the Central Americans were to be afforded the opportunity to apply for what is known as suspension of deportation. That means that, even if they were denied asylum, but could prove that they were persons of good moral character, had been living in the United States for 7 years, and could prove that deportation would cause extreme hardship to either the immigrant or a U.S. citizen or legal immigrant, the Attorney General could suspend the alien's deportation.

However, in the ensuing years, the U.S. asylum system has become so backed-up that upward of 240,000 Central Americans' asylum cases have not been resolved. As a result, the process for applying for suspension of deportation has been delayed as well.

Many of us argue that these Central Americans should be allowed to go through the suspension of deportation process that existed prior to the passage of the Immigraton Act of 1996 because most have lived here since the 1980's and were led to believe that their claims to asylum, or that their pleas to adjust to legal status, would be processed under pre-1996 rules.

The Mack amendment will afford these Central Americans who fled here amid civil war and chaos in the 1970's and 1980's a fair chance to show that their deportation would cause extreme hardship.

The Mack amendment has been improved substantially in one critical area. Initially, the proposal allowed any individual, not just Central Americans, in deportation proceedings as of April 1, 1997, to apply for suspension of deportation under the old rules—7 years in U.S., good moral character, extreme hardship—instead of the new tougher rules under the Immigration Act of 1996. The revised Mack amendment will allow those Central Americans, who came here to flee civil strife and war in the 1980's, to apply for suspension of deportation under the old rules. Individuals who have simply come here illegally will be required to apply for suspension of deportation under the new Immigration Act of 1996 rules. The new rules require such illegal immigrants to prove, like the old law, that they are of good moral character. But, in addition, they must prove that they have been in the United States continuously for 10 years and demonstrate that removal would cause extreme and unusual hardship to a U.S. citizen or legal immigrant, but not to the illegal immigrant himself.

The fact that this amendment has been revised to include only Central Americans is important—during all of the meetings I have had on this issue, and of all of the correspondence I have received, none have suggested that any individuals other than those Central Americans who fled to the United States in the 1980's should be processed under old Immigration Act suspension standards. I am pleased that the Mack proposal limits the scope in this area.

A provision of the Mack amendment that I continue to be concerned about concerns a numerical cap included in last year's Immigration Act. The Immigration Act of 1996 imposed a cap of 4,000 on the number of suspension of deportation cases that can be adjudicated in a given year. The Mack proposal removes the numerical cap of 4,000.

Even though the necessary adjustments have been made to ensure that only a specific group of individuals will be allowed to have their suspension of deportation cases heard under the old rules, the fact is, according to the Immigration and Naturalization Service, approximately 150,000 Central Americans will actually be adjusting their status to permanent legal resident. These additional permanent resident numbers should be offset in other areas of legal immigration. During the negotiation on this amendment, many of us suggested that we increase the number of individuals who will be adjudicated per year from 4,000 to 14,000, but include these numbers in our annual count of legal immigration and ensure, as a result of the addition, that legal immigration does not increase. The Mack proposal should be modified to reinstate the cap, but at 14,000 annually, with an offset in legal immigration that ensures that legal immigration does not increase.

Another concern I have about the Mack proposal is its silence about whether thousands of individuals who entered the country illegally, with no connection to any of these formerly war-torn countries, should be exempted from one of the new tougher standards against illegal immigration in the Immigration Act of 1996. Specifically, the Mack amendment is silent on the issue of the N–J–B case. The N–J–B case determined that section 309(C)5 of the Immigration Act of 1996 means that ''period of continuous residence'' stopped when an alien was served with an order to show cause before enactment of the Immigration Act of 1996, and that such time stops when an alien is, or was, served a notice to appear after enactment of the Immigration Act of 1996. In other words, the Bureau of Immigration Appeals has interpreted the provision to mean that those aliens applying for suspension of deportation cannot

count as time spent here in the United States that time spent here after having received an order. If congressional intent is not clarifed in this area, it has been made clear that the Clinton administration will seek to administratively overturn the N–J–B decision.

Legislation introduced by Representative LAMAR SMITH would clarify congressional intent. It provides that the period of time that an individual is considered to have been in the United States stops when an order to show cause was issued, except for those Guatemalans, Salvadorans, and Nicaraguans who fled here during the 1970's and 1980's to escape civil strife and persecution. Under the Smith proposal, these Central Americans would be allowed to continue to count the time spent here in the United States after having received an order to show cause.

Mr. President, many people are legitimately concerned about the effects of the removal of these Central Americans from the United States. It is my hope that, as we work toward a D.C. appropriations conference report, a modified version of this amendment can be achieved to the satisfaction of all interested parties.

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

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

RECESS

Mr. MACK. Mr. President, I now ask that the Senate stand in recess.

There being no objection, the Senate, at 12:25 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

The PRESIDING OFFICER. The clerk will report House Joint Resolution 94.

The legislative clerk read as follows:

A joint resolution (H. J. Res. 94) making continuing appropriations for the fiscal year 1998, and for other purposes.

LOG EXPORTS

Mr. GORTON. I rise for a brief colloquy with, the manager of the bill. Mr. President, section 104 of the continuing resolution states that no funds available or authority granted shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 1997. As the chairman knows, the fiscal year 1997 interior—or is it Omnibus—appropriations bill included language which prohibited the use of appropriated funds to review or modify sourcing areas previously approved under the Forest Resources Conservation and Shortage Relief Act [FRCSRA] of 1990. The fiscal year 1997 language goes on to further prohibit the use of funds to enforce or implement Forest Service regulations for this act that were issued on September 8, 1995. As the chairman is also aware, I have included language in the fiscal year 1998 Interior appropriations bill that clarifies FRCSRA. Am I correct in my interpretation of the continuing resolution, that the provisions related to FRCSRA in fiscal year 1997 are extended for the duration of this CR?

Mr. STEVENS. The Senator is correct in his assessment of the continuing resolution. If funding and authority were restricted in fiscal year 1997, then that same funding and authority remains restricted under this resolution. In this particular case, the language to which the Senator from Washington refers in fiscal year would be extended for the duration of the CR.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution (H. J. Res. 94) was ordered to a third reading, and was read for a third time.

The PRESIDING OFFICER. The joint resolution having been read for a third time, the question is, Shall the joint resolution pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—99

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kennedy	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kohl	Thompson
Dodd	Kyl	Thurmond
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden

NOT VOTING—1

Leahy

The joint resolution (H.J. Res. 94) was passed.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, I would like to use just a few minutes of my leader time, if I can. I know we are on the D.C. appropriations bill, and there is a Mack amendment pending. But until we get back to it, I would like to just take a couple of minutes.

I do not know whether we will have the opportunity again today to talk about campaign finance reform. I certainly hope so. But on the possibility that we will not have that opportunity, I wanted to reiterate an offer that I have made publicly and I would like to do it for the RECORD, if I can.

Obviously, we are in a situation now where the tree has been filled, and there are no opportunities to offer amendments. I am disappointed we are in that set of circumstances because, clearly, with campaign finance reform, as important as it is, with Senators waiting to have the opportunity to offer amendments, we are being denied that right. I hope that at some point we could clear the tree and allow Senators the opportunity to offer amendments. That is what a good debate is all about. It is not how long you spend on any given issue as much as it is, during whatever time you spend on the issue, whether or not you have had a good chance for debate.

I must say I think the debate has been very good with regard to Senators coming to the floor to express themselves on an array of positions, and I respect Senators on both sides of the aisle who made the effort to come to the floor and express themselves as clearly as they can.

My hope is that we can get back to this issue and have the opportunity, therefore, to offer amendments. The offer I made—and I will personally make this same offer to the majority leader—is that we take the Lott amendment and separate it. Democrats would be prepared, just as soon as we finish campaign finance reform, to allow this bill to be debated without filibuster, to allow the bill to be voted upon up or down. Obviously, we have amendments because in our view, whatever treatment we accord labor, we ought to accord corporations and other organizations that may have membership requirements. We do that,

and we can have a good debate about that.

To add an extraneous amendment onto this bill, and therefore not only preclude Senators from offering the amendments that they had hoped they could but to preclude us from even getting a vote on campaign finance reform makes it a poison pill and nothing more. If we are interested in debating the issue about whether or not organizations ought to refund part of their membership fees, that is one question. We should have a good debate about it. We should have an opportunity to discuss it. And we are prepared to allow a final vote on that issue if we can get agreement on this proposal.

If, on the other hand, we are simply using this as a guise, as a way in which to prevent Senators, perhaps the vast majority of Senators, from having a vote on campaign finance reform, from offering amendments, then it is nothing more than that.

So I hope we can work through this. I hope we can find a way to resolve this impasse. But certainly that would be one way to do it.

Let us take the Lott amendment. Let us set it aside. Let us have a good debate. Let us schedule a time when amendments could be offered. Senators will not filibuster the motion to proceed, nor the bill itself. I am hopeful we can work through that and at some point, as I have indicated, I will discuss this matter at greater length with the majority leader.

With that, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I ask unanimous consent to be able to speak as if in morning business.

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

REFORMING THE IRS

Mr. KERREY. Mr. President, I come to the floor today to speak about bipartisan efforts to reform the Internal Revenue Service because these efforts are being publicly challenged and criticized, I regret to say, inaccurately by the administration. It is perplexing to me personally why this administration would send a message to the American taxpayer that despite what they have been hearing the Internal Revenue Service does not need comprehensive reform.

During 3 days of hearings of the Senate Finance Committee last week, taxpayers and employees of the Internal Revenue Service testified under oath that the legal power to collect taxes has been and continues to be abused. Combined with 12 days of public hearings held by the congressionally mandated Commission on Restructuring the IRS, which conducted thousands of hours of interviews with IRS investigators, professional preparers, private sector experts, and taxpayers, a clear and convincing conclusion has been reached. The law which creates and governs the actions of the IRS needs to be changed.

Mr. President, if lawmakers in the Senate and the House consider that hundreds of new collection notices will be sent to taxpayers every working day and that 800,000 monthly contacts in its notices of audit or taxes owed will be made, then there is an urgency for us to act quickly.

If we can prevent any of the suffering disclosed in these hearings with a change in the law, why would we hesitate to act?

Of equal importance is the need to increase confidence in this unique Federal agency. More Americans pay taxes than vote. Remember, America's tax system depends upon our voluntary declaration of taxes owed and a patriotic willingness to pay our fair share. If citizens believe there is a chance that voluntary compliance will result in their privacy being violated, their return unfairly audited, or their lives made miserable, all of which we now know is a possibility, then the percentage of citizen participation could fall even further. It is safe to say that the faith of the American people in our ability to govern is linked to the ability of the IRS to function properly.

The House leadership has declared its intent to pass a new law and to pass a law this year—a law which was created in a bipartisan and bicameral atmosphere—which would solve many of the problems highlighted by the Senate Finance Committee hearings last week. The House intends to enact comprehensive reform, similar to that recommended by the congressionally mandated National Commission on Restructuring the IRS. And the Senate, in my judgment, Mr. President, should do the same.

As cochair of the commission, along with Congressman ROB PORTMAN of Ohio, I would like to share with my colleagues the problems that were uncovered by our deliberation. To be clear, at no time during these deliberations did Congressman PORTMAN and I resort to bashing the IRS. Indeed, a former Commissioner of the IRS, Peggy Richardson, was an ex officio member of our commission. We gained unprecedented access and a window into the operations of the IRS. We visited service centers, we worked and talked with employees. It is significant to note that our legislation has the endorsement of the National Treasury Employees Union.

We found that the IRS has a law enforcement mentality, but that the vast majority of its employees perform functions including tracking finances, sending out notices, and assisting taxpayers.

We find as well the IRS has a general attitude that taxpayers are guilty, even though close to 90 percent of taxpayers are compliant.

We found that taxpayers have a low opinion of service levels provided by the IRS and do not believe the IRS is trying to help make paying taxes easier. Indeed, in today's USA Today, a poll shows that 70 percent of Americans think that the IRS abuses their power.

We found that training is not a priority, and employees do not have the skills of their private sector counterparts.

We found that the IRS uses employee evaluation measures that do not encourage employees to provide quality service to taxpayers.

We found IRS management and governance structure makes strategic planning impossible and has caused a massive failure of the IRS's $3.4 billion computer modernization program. Mr. President, this conclusion has been supported by a GAO report that was issued in 1996.

We found the IRS computer systems were developed during the 1960's and 1970's and lacked the capability to provide taxpayers with quality service.

We found wasteful inefficiencies and high error rates existing in the processing of paper forms.

We found that the Treasury Department has done little to correct IRS management problems, and lacks the expertise and continuity to do so effectively. In fact, Treasury officials were noticeably absent at last week's Finance Committee hearings.

We found as well the congressional oversight of the IRS is scattered and can send confusing signals to the IRS that can be manipulated by the IRS to avoid accountability. Indeed, witness after witness came before our committee, knowledgeable witnesses who assist taxpayers in preparing their returns, and laid equal blame upon the executive and the legislative branches.

We found as well that complexity and constant changing of the Tax Code is a major obstacle that intensifies all of these problems.

The administration continues to criticize the legislation introduced by Senator GRASSLEY and I on this floor on the 23d of July, and Congressman PORTMAN and Congressman CARDIN in the House in the same week. They continue to criticize our legislation unfairly and, most important, inaccurately. In order to perhaps clear up some of the differences between what we are proposing and what the administration would like to see happen, I would like to review the complaints made against the IRS in last week's hearings and show how the law as proposed by Senator GRASSLEY and I, the IRS Restructuring Reform Act of 1997, would change things.

Criticism No. 1. Citizens have no power in a dispute with the IRS. Our law would create in law new protections for the taxpayer and new rights if a taxpayer dispute arises. At a minimum, the law should, one, expand authority of the taxpayer advocate to issue taxpayer assistance orders; two, to expand the authority of the taxpayer to recover costs and fees by permitting awards relating back to the 30-

day notice letter, allowing awards for pro bono services, increasing net worth limitations, and allowing recovery for IRS negligence up to $100,000; third, require the IRS to provide more information to taxpayers, such as making public their general audit selection criteria and explaining certain rights to taxpayers before audits such as joint and several liability and extensions of statutes of limitations.

The question of fairness of audits can be solved by requiring the IRS to provide general audit selection criteria. Remarkably, the only information we currently have about how the IRS audits comes from a researcher who used the Freedom of Information Act to force the IRS to surrender some data. There simply is no good reason for us not to write a law requiring an annual disclosure.

Fourth, force the IRS to resolve its dispute with the National Archives in which allegations have been made that historical records have been mishandled or destroyed.

Fifth, help taxpayers pay their fair share of taxes by establishing national and local allowances for offers-in-compromise; eliminating the interest differential; dropping tolling penalties during installment agreements; and providing safe harbors to qualify for installment agreements.

Sixth, open low-income taxpayer clinics with matching grants up to $100,000 a year for up to 3 years to help low-income taxpayers and especially small business.

No. 7, expand the jurisdiction of the tax court to allow more taxpayers to take advantage of the simplified small case procedures.

And, eighth, require a study of the administration of penalties, especially penalties that will fall heavier on married filers and the burden of proof needed before penalties are determined valid.

These are eight suggested changes in the law that would give taxpayers more power, more authority. They are not made as a consequence of receiving a number of complaints. They are made as a consequence of thoughtful deliberation between Republicans and Democrats, trying to figure out what the payers themselves say need to be done. We examined it in a bipartisan and bicameral fashion with the full cooperation and participation of former Commissioner Richardson who says today that she would support these provisions. These changes in the law, all by themselves, would solve many of the problems that we heard before the Senate Finance Committee last week. And all by themselves, would go a long ways toward increasing citizen confidence that they are going to be able to get a fair deal from the IRS.

The administration's bill, which they introduced—had Members introduce for them—has no taxpayer protections or rights provisions. I want to underline that. One of the things the administration has been saying is we like the Portman-Kerrey bill but we don't like the board. We like everything in it. If they like everything in it, the question is why don't they have taxpayer protections or rights provisions? I believe the reason is they introduced their bill, had their bill introduced, just so they could say we want to change the IRS as well.

A second criticism we heard was that the IRS is isolated from the taxpayer. Anybody who does not think the IRS is isolated has not examined the structure. It is buried in Treasury. The Secretary of Treasury is in charge of oversight, not just of the IRS, the 115,000-person organization, but the Secretary of the Treasury obviously has lots of other things on his mind—whoever the Secretary is. It does not have to be Secretary Rubin—any Secretary faced this. They also have to manage Secret Service, Customs, the Bureau of Alcohol, Tobacco and Firearms. Keeping the operational side inside Treasury buried as it is, makes it difficult to achieve accountability.

This, in my judgment, may be the most common thread that ran through the decisions, the criticisms that we heard, not only last week but for the entire last year.

Tax Code complexity, outdated technology, a primitive management structure contributed to the problem, but these factors alone did not explain a bureaucratic culture that produced allegations of taxpayers being hounded based on their vulnerability; confidential returns being snooped; or records being altered to reflect the IRS's point of view. Those flaws are the symptom of an agency isolated from the customers it is supposed to be serving. The IRS is languishing under a suffocating bureaucracy from which it is getting inadequate oversight and far too little input from the taxpayer.

Our new law would do a number of things. First, it would create a Presidentially appointed citizens oversight board that would oversee the operation of the IRS. The members of this board, for example, could have expertise in the operation of large service organizations or in other areas. What we tried to do was give the President maximum flexibility, so he could make selection of individuals who had expertise—the Secretary of Treasury is on the board, the head of the National Treasury Employees Union is on the board—because we believe that there are going to be significant personnel decisions that have to be made. We believe it is important to have a representative on the board, making those decisions and getting support as a consequence.

The board would be responsible for oversight, approval of strategic plans and review of operational plans. The President would appoint board members for 5-year terms and would have the authority to remove any of these members at will.

The board would approve an advisory budget of IRS, prepared in conjunction with the commissioner. It would have no access to taxpayer return information and it would not participate in law enforcement. This is what has drawn the most heat from the administration, and leads me to suspect that their principal concern is relinquishing any authority to a board that would have any authority over the decisions that are being made.

They have misrepresented and said that the board is going to be composed of chief executive officers—not mentioned in the law. They have suggested of these board members, as recently as yesterday, there were going to be significant conflicts of interest. If that be the case, how could the Secretary of Treasury sit on the board? How could anybody from the private sector sit on any advisory board that we have in all of Government? We understand conflicts of interest and we deal with them. It is not accurate to say that we cannot protect ourselves, especially when this statute says that this board will have no access to taxpayer return information and it will not participate in law enforcement.

Equally important, and oftentimes lost in the debate over this board, is that our law would create a requirement for two annual joint hearings of tax writing, appropriating, and oversight committees. It would also expand the duties and reporting requirements of the joint committee on taxation.

The Finance Committee hearings last week were the first oversight hearings in 21 years. It is the inconsistent oversight that we are trying to deal with, with this provision. But, in addition, we heard from individual after individual, the restructuring commission did, that one of the most important things you have to do before you make a technology decision or other allocation decision, you have to get a shared agreement on what the mission is going to be. Having a new oversight board for the IRS, working with a new oversight committee on the congressional side, would give us the possibility of achieving this common and shared mission.

In our deliberations, we found that congressional oversight of the IRS had no coordination. This provision will allow the IRS Citizens Oversight Board and Congress to reach agreement on regulations, goals, and objectives. It will enable the authorization of new initiatives after IRS satisfies rigorous contingencies to assure financial accountability, subject, of course, as always to the approval of the appropriating committees.

For example, decisions about the design and purchase of computer systems will be made after the legislative and executive branches have agreed on a plan. The strategy is to collect taxes owed from those Americans unwilling to pay their fair share, must also be jointly approved in order to survive congressional funding cycles.

Finally, we must provide funding for the century date change. As all of us have looked at that particular problem know, if you think the IRS computer

system is a mess now, it could get a heck of a lot worse if the date change problem is not fixed and not fixed at 100 percent.

The administration proposal would codify the status quo. Treasury proposes the creation of an IRS management board made up of 20 Government officials, mainly political appointees from departments including OMB, OPM, and the Vice President's office. I urge colleagues who are concerned about this board that Senator GRASSLEY, Congressman PORTMAN and Congressman CARDIN and I are proposing, who are critical of that, compare it to what the administration is proposing. To repeat, the administration wants a 20-person board composed entirely of Government officials, political appointees, including people from OMB, OPM, and the Vice President's office.

They also propose an advisory board of citizens. For decades there has been a commissioner's advisory group to the IRS, and we were told that it was ineffectual and the bureaucracy ignored their advice.

The reason they ignored their advice, Mr. President, is an advisory board has no authority, no power, and no one, to my knowledge, pays a lot of attention to advisory boards that lack either authority or power.

Fourteen expert witnesses testified before the Ways and Means Committee on September 16. All but two or three testified in favor of the bill that Congressmen PORTMAN and CARDIN introduced, and all testified against the administration's proposal.

I would like to read the names of some of the experts who testified: Eugene Steuerle, senior fellow of the Urban Institute, against; Donald F. Kettl, director, Brookings Institution, against; Robert B. Stobaugh, Harvard Business School, against; Phillip Mann, section of taxation, American Bar Association, against. And on and on, Mr. President.

The administration's proposal has been opposed by all the people that they cite, or some of the people they cite at least as reasons not to support the newly constructed oversight board that Senator GRASSLEY and I have proposed. Again, I have regrettably reached the conclusion that this really is not about what is going to work as it is about making certain that no power and authority is relinquished by the Secretary of the Treasury over the 115,000 people who work for the IRS.

The third criticism that we heard not only last week, but all year long, was that the IRS management structure does not allow for the removal of bad apples. Our law, Mr. President, would create a 5-year term for the IRS Commissioner. In current form, our legislation says that the board appoints the Commissioner. I would be willing to consider having the President appoint the Commissioner with formal input from the board and continuing to allow the board to evaluate and recommend removal for cause.

This law would give this Commissioner increased legal authority to manage the IRS. Consistent with merit system principles, veterans preferences and established labor/management rules, the Commission would be given a new rating system to hire qualified applicants and flexibility to hire a senior team of managers.

Remarkably, the IRS Commissioner has very little flexibility in managing this agency, and one of the difficulties that he or she is going to have, regardless of who they have, in managing with zero tolerance is the sort of things we saw last week: the absence of the power and authority to be able to manage as I think most of us in Congress and most of the American taxpaying citizens would like to see done.

The administration's proposal would create a 5-year term for the Commissioner. That is true; that is the same as ours. But it stops there. It would not have board members with 5-year terms to provide the needed continuity and support to the Commissioner. All the political appointees could come and go in the same year.

One of the biggest problems we have with the IRS is lack of continuity, particularly continuity of management oversight. One of the defects of a board being all political appointees inside the Government is that they tend to turn over more. It is this turnover that makes it difficult for us to get the kind of continuity this agency demands.

The fourth criticism we have heard is it is difficult to file a tax return and there is a breathtaking gap between the service taxpayers get from the IRS and the service they get in the private sector.

Our new law would create goals and due dates for electronic filing. At the heart of comprehensive reform must be a vision of an IRS that operates in the new paradigm of electronic commerce. One of the most telling comparisons made by taxpayers who appeared before us was the comparison given between an ATM card that is provided by their commercial banks and the lack of similar conveniences from the IRS. Potential savings to the taxpayers are large: The error rate for electronic filers was less than 1 percent, compared with 20 percent for a paper file. While we will never have a paperless IRS, Congress must change the law to provide incentives and assistance to a new IRS which gives its customers services comparable to the private sector.

The administration proposal would allow the IRS to spend more money on marketing electronic filing, but would not include any specific goals or requirements for the IRS to take immediate action to increase electronic filing.

The fifth criticism we heard is that Congress has created a monster of a Tax Code that is too complex to administer. Under our new law, Mr. President, we would create a process for evaluating the cost to the taxpayer of tax law complexity by giving the Commissioner, for the first time, an advisory role when new tax laws are being considered; requiring, as well, a tax complexity analysis during legislative deliberations; increasing Federal-State cooperation; and requiring the Joint Committee on Taxation to study feasibility of estimating taxpayers' compliance burdens.

We just made the Social Security Administration independent. The President's nominee was confirmed by the Senate. When the President's nominee came before the Senate Finance Committee, we were able to ask the question: If you reach a conclusion that the President doesn't like or that we don't like up here, are you going to be able to express that conclusion publicly? And the answer is yes. That is what comes with independence.

We need an IRS Commissioner that is able to, while we are debating taxes, say, ''Great idea, Mr. President, I saw everybody gave you a standing ovation.'' ''Great speech, Senator Blowhard, I see you got a standing ovation as well, but guess what it is going to cost the taxpayer to comply with your idea? They may give you a standing ovation, but if it becomes law, this is what it is going to create as far as the taxpayer is concerned.''

Under the current law, the IRS Commissioner will never come before the American people and make that kind of statement. Under our law, they would be required to do so. The complexity of the Code may require comprehensive reform of our tax law, but in the meantime, why not give the Commissioner authority to advise Congress of the potential problems of our ideas, and why not require a tax complexity analysis? At least we could then evaluate these potential new costs before proceeding. The administration's proposal would not do anything to encourage simplification of the tax law, although it would allow the IRS to enter into cooperative agreements with State tax administrators.

Mr. President, let me add a closing note about the administration's handling of this bill. Honest people can have honest disagreements. For that reason, I tried to be restrained in my criticism of the administration's proposal. But the ongoing public relations battle they are waging requires me to respond.

First, my broad critique is that the administration's proposal is both timid and hollow. We started our proposal with the belief that the law needed to be changed. Laws, Mr. President, have teeth. They must be enforced. They make a difference. The administration's proposal is more a set of suggestions than a set of laws—false substitutes. They become dentures rather than teeth.

Second, the administration has leveled its strongest complaints against our proposal for an oversight board comprised of taxpayers. We made this proposal because we thought the IRS was culturally isolated from the taxpayer, because we believe the IRS

lacked the independence from the bureaucracy it needs to fix the problems, and because we believe the agency needs input from outside its own headquarters.

I assume the administration agrees with this observation, because it, too, has proposed an oversight board. The problem with the administration's board is that its members would come from the same bureaucracies that created the problem we heard about last week. Taxpayers would have no input except through an advisory panel, and the board they propose would have little real power. In fact, all 14 expert witnesses, as I said earlier, testifying before the Ways and Means Committee said they do not support the administration's IRS governance proposals.

The administration contends our oversight board would consist of self-interested CEO's. This is quite simply, and quite directly, false, and the administration knows it. They have read our bill. They know what is in it. And they continue to describe it inaccurately in order to get people to presume they should oppose it.

Our proposal is for a nine-member board, two of whom will be the Secretary of the Treasury and a representative of Treasury employees. The other seven could be anyone who the President appoints and the Senate confirms—anyone. A small business owner in Lincoln, NE, can be on this board, as a taxpayer advocate from anywhere in America. ''CEO'' does not appear in our bill. I do not know where the administration has concocted this ruse, unless they fear that CEO's are who this administration will appoint.

The administration also claims a board run by taxpayers is a recipe for conflicts of interest. At root, this is an argument that the vast majority of taxpayers who do not work for the Government lack the necessary moral rectitude to participate in reforming the Government that belongs to them, and I strongly disagree. Americans who work and pay taxes in the private sector contribute to Government all the time. In fact, one of them is the Secretary of the Treasury today. He ran one of Wall Street's most elite firms. I presume that whatever mechanism has been sufficient to protect him against conflicts of interest would also be sufficient to guard against conflicts of interest by members of this board.

Finally, it seems to me the administration is intent, perhaps determined, on preserving the basic structure of the status quo. They wish to strand the IRS in the labyrinth that is the Treasury Department's bureaucracy and is the same bureaucracy that has failed to run the IRS in a manner that gives citizens confidence.

The problems at the IRS are not this administration's fault alone, but I cannot help but observe that if the Treasury Department had done a great job running the IRS the last 5 years, I might be more convinced that they ought to keep running it. But the simple truth is, they haven't. Perhaps the best summary of the administration's proposal is this: If you like the service you get from the IRS now, you'll love the administration's IRS protection bill.

Having responded in kind, Mr. President, I still hope the administration will start participating in this debate constructively. I still believe we can work out our differences, which are not great, as long as they begin to tell the truth about Senator GRASSLEY's and my plan.

Regardless, Congress needs to proceed as quickly as possible to enact changes in the law which will result in the best practices being applied to the operations of the IRS. Americans want an IRS that can quickly answer the question, How much do I owe; an IRS that is customer oriented to those payers willing to voluntarily comply as is a commercial bank to its customers; an IRS that knows it had better be right when it comes after a taxpayer for collection, otherwise it will pay for wrongly accusing a taxpayer of being delinquent.

In the interest of those Americans who voluntarily comply but who struggle with a complicated code, a confusing service policy, incompatible information systems, and the fear that they could be the next in line for harassment, the time has come for Congress to act.

Mr. President, it is time the IRS starts working for the American taxpayer. To further delay is to ask millions to suffer unnecessarily. I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH. Thank you, Mr. President.

The managers are here to accept amendments to the District of Columbia appropriations bill, and I remind all Senators that we intend to complete action on the bill today. I encourage any Member to come to the floor immediately if you have any amendments or to advise the staff if you intend to offer an amendment.

Mrs. BOXER. Will the Senator yield?

Mr. FAIRCLOTH. I will yield to the ranking member on this bill.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President. I just want to reiterate to our side that if there are amendments, we are here, and we are very hopeful to move this bill through. The chairman and I work well together. We are just waiting for colleagues from both sides. We think this is an important bill. We think there are a lot of good things, and we want to move them forward. We are hoping people will come down at this time.

I ask unanimous consent to speak as in morning business for up to 12 minutes.

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

Mrs. BOXER. Thank you very much, Mr. President. If I do see colleagues who are here to offer amendments to this bill, I hope they will let me know, and I will make my remarks brief.

CAMPAIGN FINANCE REFORM IS A PRESSING MATTER

Mrs. BOXER. Mr. President, I was listening to the news this morning, and the reporter said, ''The Senate has agreed to set aside campaign finance reform and go to more pressing matters.''

I thought to myself, campaign finance reform is a pressing matter. It seems to me there can be no more pressing matter. We ought to deal with this issue of campaign finance reform and let the chips fall.

We have a lot of parliamentary games being played. One of my colleagues, Senator DORGAN, said earlier that if the American public was listening this morning and heard somebody say, ''There is a poison pill on a tree that has been filled,'' the public would not really understand what we were talking about. When we talk about a poison pill, we are talking about an objectionable amendment that is extraneous to what we are trying to do being offered in an attempt to kill the underlying bill. Filling the tree means using a parliamentary tactic to prevent opponents of an amendment from offering any changes to that amendment. So I apologize to the American public if they tuned in and heard somebody talking about a tree being filled with poison pills because it does get confusing.

But the matter is not that confusing. The matter is, how do we finance our campaigns, and can we improve that system? I think all of America is crying out, ''Yes, we can improve it.'' Only a few say, ''Don't touch it, it is great, and money is speech.''

Now, it is true that a divided Supreme Court did equate spending as much money as you have with the right of free speech. But that was a close call. It seems to me our Founders would be turning in their graves if they believed at the time they stood up for free speech that it really meant ''only if you are rich,'' because, folks, that is what it is about.

I am proud of my colleagues, RUSS FEINGOLD and JOHN MCCAIN, for pressing this matter across party lines, and standing up for campaign finance reform. I am proud of both of them because it is not easy. The status quo around here is what people like the best.

I have to tell you, when I think about speech, I think about both sides of it. If

you have an independently wealthy billionaire running against you in a State like California, and he writes checks every day and bashes you on television every day and bashes the other opponents that he is running against every day, I believe we should ask, what about the free speech rights of the opponents? What about the speech of the other people that are drowned out because of money? If you equate money and speech, it seems to me you are saying someone who is wealthy has more speech rights than someone who is not.

This is not the American way. We are all created equal. That is the basis of who we are as a nation. I really hope that we can get past this notion that money is speech and that we will move forward with a comprehensive bill.

My one disappointment with the substitute pending before the Senate, is that it is not as comprehensive as the first version of the McCain-Feingold bill. However, I respect the judgement of the Senators that it would be best at this time to zero in on two horrible abuses of the system.

One abuse is the soft money abuse, which means unregulated dollars of any amount that flow into political parties. We have seen the hearings that are going on by this U.S. Senate and over in the House. If anything, we come away with this: Let's put an end to soft money. We could point fingers all day—this politician, that politician, where the calls were made, who made them—but I guarantee that gets us nowhere. The issue is the system. There will be enough examples around from both parties. This is not the problem.

So if we get exercised about these hearings—and I have seen colleagues here who are very exercised about them—they should go over to JOHN MCCAIN and RUSS FEINGOLD and tell them they are on their side. There ought to be some controls on the soft money contribution, and those controls are now pending before the Senate. The second area of abuse tackled by the McCain-Feingold bill is the so-called issues advocacy advertisements. This is where you take an organization with endless sums of money to put into an attack ad against the candidate they don't like.

Under current law, individuals can only give $1,000 in the primary and $1,000 in the general to the candidate, but issues advocacy has grown into huge loophole. These so-called issues ads are not regulated at all and mention candidates by name. They directly attack candidates without any accountability. It is brutal. I have seen them. I have seen them from both sides.

I can tell you, it is totally unfair and totally unregulated and vicious. It is vicious. We have an opportunity in the McCain-Feingold bill to stop that and basically say, if you want to talk about an issue, that is fine, but you can't mention a candidate. If this is truly issue advocacy, you can't mention a candidate a few weeks before the election.

If you want to talk about an issue day and night, talk about the issue, whether it is choice, the environment, health care, gun control—talk about it. But once you attack a candidate, that is not an issue ad. This is what the Feingold-McCain will go after.

I think we owe a great big thank you to those two colleagues for pushing this and moving this. I have to say that I am very disappointed at some of the debate, because one of our colleagues who is leading the charge against this says, ''We are going to kill this bill and we're going to be proud to kill this bill.''

I don't know why someone would feel proud to kill a reform bill that the American people want to see us do. I don't think it is a proud moment. I don't think it will be a proud moment if we can't move this forward.

I am both hopeful and fearful at this point. Hopeful because, as long as we are here in this body and this measure is pending and the people are listening, there will be an outcry for reform; but I am fearful because of some of the statements I have heard.

Let me close by saying what it is like to run in a State like California. I am told by the people with the calculators that if you figure out how much a candidate from California needs to raise in 6 years to run for the U.S. Senate, you would have to raise $10,000 every day, 7 days a week, in order to meet your budget. That is not right. That is not the way I think the American people want us to spend our time. I also don't think the American people want to make this an exclusive club for multimillionaires.

If we get to that stage where everyone here is independently wealthy and they really don't understand what life is all about, I think we will lose a very special aspect of what a representative democracy is.

I am hopeful we will rise to the occasion. We have done it before in this body. We have a chance to do it again. I see the Senator from Minnesota is on his feet, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. While we are waiting for amendments, I ask if I could have up to 15 minutes to speak as in morning business.

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

Mr. WELLSTONE. Mr. President, I want to pick up on some comments made by the Senator from California. First of all, I express my disappointment that we are really not debating this campaign finance reform bill. There are a lot of games that are being played right now.

What we have—my colleague from California was saying there is no reason to talk about filling up the tree and poison pill provisions—but what we have going on here is an amendment introduced by the majority leader that has an Orwellian title called the Paycheck Protection Act. It is really kind of a union label working people gag act. In any case, it is a killer amendment and has no business being on this bill.

Senator DASCHLE, the minority leader, has said if the majority leader wants to have a debate on this division provision, we will deal with it separately. We will agree to a debate on it. We will have amendments and we will deal with it.

But what is going on right now is that this amendment and this effort to fill up the tree means that there is no way in which other Senators can introduce amendments. For that matter, I don't see us having much of a debate. I am hopeful we will get back to this debate.

I want to be clear with people in the country that the fact that you have a campaign finance reform bill hanging out there on the Senate calendar, I guess starting at the end of last week and yesterday, Monday, doesn't necessarily mean we have really a high-quality debate. I am not even going to speak that long because I want to wait for colleagues to come out here on the other side and have a full-scale debate on this piece of legislation.

Mr. President, we are very close to passing a reform bill. In many ways I am pessimistic because I think this amendment that the majority leader has introduced is an amendment which may very well destroy our chances for passing reform legislation if it passes. On the other hand, I think people in the country are pretty smart about this. I think they see it for what it is. My hope is that there will be a few more Republicans that will join Senator MCCAIN and Senator COLLINS and Senator THOMPSON and Senator SPECTER and we will have the ability to defeat this amendment and then go on to the McCain-Feingold bill.

I am willing to admit people have different views about how to solve this problem. I am convinced this is the core problem. I don't think there is a more important issue. I think people in the country know it. The problem is that people hate this system and they know it, and I think they believe that Government too often responds to the interests of the wealthy and powerful and not them. I think they are probably right. Even though I think individuals here in the Senate and the House have a highly developed sense of public service, people can agree to disagree, but systematically you have a huge imbalance of power because this whole political process has become too dependent on the heavy hitters and the investors and the givers and the people who have a whole lot of money. That tilts the system in a very dangerous direction toward the very top of the population, and it leaves the vast majority of people out.

It also means we have a very, if you will, distorted debate on issues. I don't think it is any accident that ultimately when it came down to how we did deficit reduction, a good part of

many of the areas we made reductions in affected vulnerable people, low- and moderate-income people who are not the big givers. I don't think it is any accident we left most of the tax loopholes and tax deductions alone, because then we would have had to take on the big givers. I don't think it is any accident that there are a whole lot of questions that deal with concentration of power. I will take the telecommunications industry, since I think we made a big mistake when we passed that piece of legislation. I think the flow of information in a democracy is the most precious thing we have, but in a way this whole issue of concentration of power gets taken off the table.

I don't think it is any accident when we were debating universal health care coverage very fine Senators would say to me, ''There is no way we can take on the insurance industry given the power of the insurance industry.''

This is very corrupting in a very systematic way—not in an individual way, but in a very systematic way. I just say I think if we don't get the job done or if we don't at least get half the job done or if we at least don't get a quarter of the job done, I think people will be disillusioned and they will have a right to be. We will have given them every justification, every reason for being disillusioned with us.

Now, Senator MCCAIN and Senator FEINGOLD are both close colleagues and good friends. Senator FEINGOLD is my colleague from the State of Wisconsin. We have all worked together on these reform issues. I was proud to be one of the original cosponsors of the bill with Senator THOMPSON. What we had was an original—it's a little like hot sauce; we have the McCain-Feingold original formula, and we have the McCain-Feingold extra mild, which is the new formulation. The extra mild is meant to get us past the filibuster and any diversion from the majority side, and I hope it does. But I have to say that I don't even think the extra mild has enough zing in it. I know this is a good-faith effort to move us forward.

Let me talk in very concrete terms about what all this means for people in the country. I will get back to this in a more extensive way when we have the debate. What has already been dropped out, I think, is a shame. I think Senators FEINGOLD and MCCAIN are disappointed, but they are trying to move forward on some reform. What has been dropped out of this is the agreed-upon spending limits, reducing the amount of money that is spent in exchange for discount broadcast advertising time and direct mailing expenses.

In other words, the very part of the legislation that actually would have reduced the amount of money spent in our races, Senate and House races, has been taken out. Actually, the one provision of this bill that I think would have led to a more level playing field has been taken out already. I think that is a shame. The reason that I got so involved in this whole debate about reform from the word go was because I just think an obscene amount of money is spent. The reason I got involved was, back in 1989 and part of 1990, it was so disillusioning to me to have just about everybody I talked to tell me I didn't have a chance to win because I didn't have access to the money. That is all people would talk about.

Actually, the provision of this legislation that directly deals with our raising money and our spending money in our campaigns and the connection to how we vote—even though I think all of us hope there is no connection, it certainly looks that way to people—has already been taken out. What is in this piece of legislation that I think is important—there is one provision I disagree with. In the aggregate we have now raised the amount of money individuals can contribute from $25,000 to $30,000 a year. I would not raise individual contributions at all. I think that just intensifies the problem of those people who have the big bucks being able to contribute more. Most people in North Carolina or Kansas or Minnesota cannot afford to contribute $100 a year much less collectively $30,000 a year.

But we are now down to, as I said, an extra mild version. It doesn't have enough zing in it, from my point of view. But I understand it would represent a step forward if we keep it intact. Part of that deals with the unregulated money, the soft money, that goes to parties. I think it is terribly important to prohibit that because obscene amounts of money have been spent. We really saw that in the Presidential election. It essentially has become such a loophole that it has made people utterly disgusted with the system. A lot of what people have read about and heard about on TV has to do with soft money.

There's a second part which my colleague was talking about, independent expenditures. It's the issue advocacy ads, which are terribly important to talk about because this is a huge loophole. If this gets stripped out of this piece of legislation, we will be making a huge mistake. I don't need to tell the people in Minnesota who followed the last election because there was about a million dollars spent on issue ads. They essentially run these ads on television and they bash you if you are a Democrat or a Republican—it depends who is doing it. They just don't say vote against you. There is no spending limits at all. So a huge problem, again, is with the unregulated money, which can be the soft money, which means that people can be contributing huge amounts of money to this, obscene amounts, which is used to buy elections.

What this piece of legislation says is you can't do those ads. It becomes express advocacy if you do it in a 60-day period prior to the election and you use the name of the candidate. This is the bright-line test, which makes a whole lot of sense. You can't have perfection here. But if you drop that provision—and I know a lot of colleagues want to drop that provision—then what you will do is stop the soft money to the parties; it is just like Jello, you push in and it will all shift over to these issue advocacy ads. You will have all sorts of groups and organizations, and some you might like and some the Chair might like, some the Senator from North Carolina might like, some I would not like, but that is beside the point. You are going to have the same unregulated, obscene amount of money, no accountability, being spent in these elections, adding to the disillusionment of the people and used, by the way, for these attack ads, where they have been raising millions of dollars figuring out how to rip their opponent to shreds or how to prevent themselves from being ripped up into shreds. Hundreds of millions of dollars are spent like this, and it does not add one bit of information for one citizen in the United States. No wonder people hate this system. We ought to really try to build a little bit more accountability into this.

Well, Mr. President, these are important provisions that we are talking about here. I think that this represents a huge step forward. Mr. President, what I would worry about—and I will sort of finish up this way—is these three scenarios, and when we get into the debate, I can go into all of them in more specifics. One scenario is that we have the majority leader's amendment. It really is, as my colleague said, extraneous to this legislation. We can have a separate debate on it later on. It is really essentially a union gag, worker gag amendment. It is harsh. It should not be on this bill. If it passes—and I think we can have the votes to defeat it—then we reach a huge impasse. I suppose that people can think we have a clever strategy here. But most people in the country know this is nothing more than an effort to waylay the whole reform effort. It won't work. We are only a vote or two away from defeating it. I think we can have Republicans and Democrats join together to do that.

The second scenario I worry about as well, which is an already stripped-down version of McCain-Feingold, you will have the 60-day accountability on the issue ads taken out. You will raise campaign contributions and you will wind up with a piece of legislation that will have a fine-sounding acronym, that made-for-Congress look, but as a matter of fact, it will just shift the amount of money, spent in a different way. It will be an obscene amount of money. It will still undercut democracy. You will still have all of this money spent, and when people in the country find out that not much really has changed, they will be furious, discouraged, disengaged, and none of us benefit. I hope that doesn't happen.

The third thing that could happen is that the McCain-Feingold, what I called extra mild, the new formulation,

will pass. Again, there is not enough zing in it, from my point of view, but I think it would represent a step forward. I mean, the provisions in the McCain-Feingold extra mild would be a step forward. It would be a reform effort. It would build some more accountability into the system. It would lessen some of the money that was spent, and I think it would give people some confidence that we are serious in this Congress about trying to change this system, this mix of money and politics, which so severely undercuts democracy.

Now, a final point, if I have 2 minutes left. There is a whole lot of energy around the country at the State level. I mean, Vermont just passed a clean money election option. Maine passed it. I know that Massachusetts is going to deal with this question. This is an effort that I love. I have introduced a bill with Senators KERRY, BIDEN, and GLENN which basically says we are going to get all of the private money out, the big dollars out, and I think ultimately this is the direction we have to go in. I will tell you something. People around the country at the State level are saying yes to that.

So, colleagues, people are serious about reform. This is one of those moments in time. As the Senator from Minnesota, I am very discouraged that we are not out here debating this. Let's finish this appropriations bill that my colleagues from North Carolina and California are managing, the D.C. appropriations bill, and let's have the debate on campaign finance reform. Let's not have amendments out here that are nothing less than an effort to destroy this reform effort. Let's debate the stripped-down McCain-Feingold measure and get on and pass the reform bill.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH. Mr. President, I yield to the Senator from Vermont 40 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 40 minutes.

Mr. JEFFORDS. Mr. President, I don't anticipate taking very long. I want to raise a very important issue relative to the District of Columbia. First of all, I want to commend the subcommittee chairman. I served just ahead of him in that capacity. I know of the tremendous responsibility he has, and I have admired the way he has been handling his job. I have also admired the way they have put the bill together this year to help the city of Washington.

But there are problems that are really beyond the possibility of the subcommittee to correct. These are what I want to discuss today. First of all, let us remember what the important issues facing this Nation are and reflect and look at the District of Columbia with respect to those. The District of Columbia, as we all know, is the Nation's Capital. But I think sometimes we Members have a tendency to forget that we are responsible now for the city of Washington. We, in 1974, turned the city over to home rule. As that experience turned out to be rife with difficulty for the residents of D.C., Congress made efforts to become more vigorously involved with the city's governance. By getting more directly involved, particularly with regard to the education system, we therefore made ourselves, the Members of this body and the House, directly responsible to the people of the District of Columbia. And furthermore, we became more directly responsible to the people of the Nation overall that we would have to do what is necessary to make this Capital a capital we can all be proud of.

Can you be proud of the United States Capital when the top issue in this Nation right now is education and here in Washington we continue to have some of the lowest educational scores and standards in the country? We are doing our jobs as leaders in a major metropolitan area; how can we turn this city into a model for the Nation to show how we can take the cities and help them become educational enterprises that are functioning well and that are delivering our young people into society with the skills they need to be able to make this Nation strong?

This is a national problem of the highest priority. But let us take a look at the District of Columbia and where we stand as far as what we are doing for it and the distance that we have to go. As I said, I had the job that the Senator from North Carolina has, the chairmanship of the subcommittee, and I took that responsibility very, very seriously. Working with Congressman GUNDERSON on the other side, we developed an educational program for the city. We worked long and hard at it. We got it approved, and it is in law. It sets out the goals and methodology and the means for us to take this city and turn it from the worst—and I will explain that later—in educational results of any city in this country.

Second—and I will talk about that even more quickly—we also have about the worst infrastructure of any school system in this country—the worst. So if we are going to make real progress in turning this education system around we have a long way to go.

We set the framework a couple years ago when we took over the city. We created, first, the Control Board, which now has more of the mayoral responsibilities, or is more analogous to a board of aldermen. They then created a school board to take a look and see what they could do to take this city and to change it into a city that we could be proud of.

We have all recently noted that the schools didn't open on time. Children were ready to come in, but the roofs were leaking, books had not been delivered. What happened? We had an amount of money for emergency repairs that had been appropriated—but that money, about $86 million came from the remainder of existing funds, and other one-time piece meal funding, not through a dedicated, sustainable revenue stream. It will just not be the right way to go to meet the needs we have, particularly with regard to infrastructure.

Take a look at this chart. You can see that if this situation is not the worst in the Nation, it is pretty close.

Look at these statistics from a General Services Administration study, which I will make a part of the RECORD, which goes through these infrastructure categories item-by-item to show where this city is.

Exterior walls: The national average for having problems is 27 percent. We have 72 percent of our exterior walls and windows which are bad and not meeting codes.

Next one: Roofs. This probably has improved a little since we spent $70 million fixing roofs this fall. But a year ago, only 27 percent of the schools in this country had poor roofs—but in the District we had 60-some percent of the roofs that were not meeting code. This does not mean they are beautiful; they just do not meet the code and safety violations.

Heating and ventilation, and air conditioning: The national average, 36 percent below code; Washington D.C., 66 percent.

Plumbing: Sixty-five percent of the plumbing doesn't meet code in D.C.'s schools—65 percent.

Electrical and lighting: Fifty-three percent of the District's school's are in code violations in this category

Life safety codes: Fifty-one percent of our schools are in violation of life safety codes. Would you trust your own children to that? I think not.

Power for technology: This is where we are doing the best, fortunately. But, still, 41 percent of the schools don't have power to utilize technology.

I am talking here about the Nation's Capital, the city that we would like to point to to show as an example of how a school system should be run.

Keep that in mind.

Let's take a look at this next chart to see what is going to happen.

For 3 years in a row we have had the schools not opened on time because of violations. Well, this is according to the GSA. The amount of repairs, cost of repairs to meet code, plus some other essential repair: $2 billion—that is with a ''b''—2 billion dollars' worth of repairs that are necessary in order to get our schools in compliance with the safety codes and other codes.

We managed to get $86 million available this year. That was the high point. We put $50 million the year before. Divide $86 million into $2 billion, and you will see that somewhere between 20, 30, or 40 years from now depending on

what you spend each year, those schools are going to be in code—our Nation's Capital.

That is inexcusable. You tell me how we are going to get $2 billion to be able to fix those schools. Is this subcommittee going to appropriate $2 billion? Of course not.

I went from the Appropriations Committee to the Finance Committee, because I knew that was where the action was going to be. There is a lot of money out of there—$35 billion for education.

So to the Finance Committee, I said, ''Hey. We ought to fix these schools.'' So I had an amendment to get $1 billion—only one $1 billion—to get half the job done. I came within one vote of passing that in the Finance Committee. That was one of those meetings in the middle of the night where nobody was quite present. But, anyway, I came within one vote of getting it. I finally got $50 million. That would have paid part of this year.

We went to conference. And they said, ''No. We would much rather create more jobs in the city. We would much rather give things like tax credits for buying new houses, and all of these kinds of things.'' So I went after the $50 million. But I did get a commitment from the head of OMB. I will get into that in the later part of the discussion here. But he agreed with me that we ought to do something, and that he would go with me and travel and talk with the Governors of Maryland and Virginia. I intend to do that, and see whether we can work something out. That will get to the solution which I will get to a little later.

Now let's take a look at where we are as far as the achievement of our young people and take a look at this, if you want to get depressed.

This chart shows where the District of Columbia is in red. We put the District of Columbia in red each time where it belongs. And this shows the Northeast average; the national average levels. These are fourth grade students scored at or above basic reading achievement levels. And it was down 6 percent from 1992. We took these from 1994. Twenty-eight percent of the children in the District of Columbia were passing the assessment for reading. In 1993, it went down 6 percent to 22 percent.

If we are going to make the District of Columbia the model for the Nation to follow, we are kind of headed in the wrong direction.

So what are we going to do about that? I will also get to that in a little bit. Right now I think it would be appropriate to go to the next phase where I am going to offer the amendment.

AMENDMENT NO. 1266

(Purpose: To provide for a regional education and work force training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk. I would especially want to alert my Virginia and Maryland Senators that they don't need to jump out of their chairs and run over to the floor right now because I intend to withdraw it when I am finished. I offer the amendment.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, it is so ordered.

Mr. JEFFORDS. I ask unanimous consent to set aside temporarily the pending amendment and I will withdraw it so it will be back pending at the time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 1266.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the purpose be read. It is relatively short. The amendment is unfortunately quite long.

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

The clerk will report.

The legislative clerk read as follows:

(Purpose: To provide for a regional education and work force training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia)

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. JEFFORDS. Mr. President, I thought that last sentence might stir up some anxiety. So I wanted to make sure that I reassured Senators that I would withdraw it.

But I did want to reemphasize that I intend to meet with the OMB director and with the Governors of Maryland and Virginia, and lay out this plan which will help the District. But it will also help the two surrounding States. So hopefully we can get an agreement to go forward with this, if we could, one, raise the $2 billion to take care of the infrastructure problem; and, two, share 50–50 the ability to create the kind of skilled training that is necessary in this metropolitan area in order to provide skilled workers for the 50,000 jobs that are available in this region which are not being filled at this time.

Before I go on, I want to say that the things which I am saying here and recommending are not things that JIM JEFFORDS decided when he was losing his mind or something, as somebody would think about standing up here and trying to help the District of Columbia. But this book everyone ought to be required to read in the Congress, which is ''The Orphaned Capital,'' and it is by Carol O'Clanahan, at the Brookings Institution.

This was done on behalf of the city to explain the mess we are in, and possible solutions as to how to get out of the mess.

So, again I want to emphasize that what I am trying to do today is to challenge the delegations from Maryland and Virginia, or anybody else, to say show me if you have a better way to come up with $2 billion so that we are not embarrassed by having our schools shut down. Let me tell you why they will end up shutting down again if we don't come up with something.

There is a group called Parents United. And they are upset with the fact that their kids are going to schools that are unsafe. So each year they go to a judge who is very friendly to them and who likes to make us look stupid. So that judge shuts the schools down each year. And they have about 20 to 40 years to go, depending on how much we put up each year with these code violations.

So they will pick on a number of code violations. The boilers are about to blow in several of the schools. So maybe this winter the Christmas holidays may get extended, if they decide to go and get the boilers fixed, although I hope they will be able to fix the boilers without that.

But anyway, they will each time go, and they will get the court to order the schools to be repaired. But as you say, with $2 billion to go in doing it with $50 million to $80 million a year, it will take a while. I don't want to have to spend the rest of my time here being embarrassed every year about why these schools are not being opened.

So let's take a look at what the positive side of the events are. Let me tell you what we have here, just to give you some credence on what I am saying. Look at this Washington Post editorial the shortage of workers in this regional area for the information technology jobs available.

But, as I mentioned earlier, there is a serious labor market shortage in this area. We have a burgeoning development of technology-based jobs—not only in the information industry but in every sector of our economy. These jobs are available in a location that's nice and convenient to the Capitol. There are 50,000 jobs out there right now that cannot be filled. And these are $20- $30- and $40-an-hour jobs that cannot be filled because the schools, the high schools in this area, even though we have some good ones out in the suburbs, are not graduating people from high school with the capacity they should have to take these jobs. I want to mention this to give you an idea of the dimension of the problem.

If we could fill these jobs, it would increase the revenues in the area available by $3.5 billion annually. We are talking about an enormous amount. Keep that figure in mind. That is the potential that we could do. Keep also in mind the fact that in this city now two-thirds of the workers are living in the suburbs. That is up by one-half

from several years ago when everybody flooded out of the city.

I will remind you. Why did they flood out? Two reasons: One, crime; and, back and forth between number one and two, the schools. The schools are lousy. I am not going to bring my kids up here. I am taking them to the suburbs.

So now two-thirds of the workers go out. Do you know what they take with them? They take with them $20 billion a year—$20 billion a year that goes out to be taxed by Virginia and Maryland. Do you want to know why Virginia and Maryland are going to get upset? Because if I try to take some of that, wow. That is going to be revenue out of their pockets.

That is why I want to emphasize that if we increase the revenues by $3.5 billion, it will help reduce the impact of removing it. And we are not going to take all of it anyway. How much comes back in from people working out? One percent of that. One percent comes from workers working out of the District—outside the District, coming back into the District. It is a huge disparity.

Another fact that I want to mention—this one is very, very important to remember. Washington, DC, is the only city in America which is in an interstate area where its workers cannot—cannot—be taxed on their wages before they go home. It is the only city in America that is in that situation. All of the cities that are in an interstate situation have taxes on the nonresidents. So part of the work revenue stays. The highest I think is 4 percent. The average is around 2 or 3 percent. Just keep that figure in mind because you have a huge amount of money that flows out of the District into Maryland and Virginia, which grab hold of it and throw into their treasury. Everybody would like to be able to do that.

So that is the situation we are in.

Now the question is, How can we make an equitable system, granted that this city is restrained? How are we restrained? Let me tell you how that happened. Back in 1974, when the District of Columbia went to home rule, a very astute Member of the House said, ''Hey. Every other city in this country grabs money from the workers.'' And that Representative was from Virginia, naturally, and offered an amendment which passed that said the District of Columbia is prohibited from taxing workers, nonresident workers. And that is still in the law. So right now, unlike any other city in America in a similar situation, the District of Columbia cannot tax the nonresident income.

Well, it seemed to me that under that circumstance it would be appropriate to take a look to see if we could not just nick it and take some money back to float the bond for the $2 billion needed for the infrastructure code repairs.

That is what this amendment does. But in addition to that, to be more wise and also make it more appealing, my amendment will take money from the nonresident workers, the tax money that goes to Annapolis and Richmond, and bring it back into counties of Maryland and Virginia that border the District of Columbia.

So in the final analysis we start out and ease it in, phase it in so that it would have a slow differential in the impact it has on those States starting off with money to repair the schools. That will take about 1 percent. We could phase that in in a couple years. One percent would take care of the bonds to raise $2 billion. Then, if we can go to 3 percent, split that so that it equals half the money going to the suburbs and half to the District of Columbia—that is including the infrastructure repairs—we can then create what needs to be done, a system to be able to coordinate the schools in these areas to find out where best to have skill training. For instance, I would recommend we take UDC, the University of the District of Columbia, and make it into a skill training center. Give it a new purpose. It could be used for those purposes. And these grants would be given out in cooperation with the Department of Education and the Department of Labor. I did not want to give it to the Federal Government, but that does make it necessary for interstate compacts. So then we could create the system.

Let's take a look back at the Washington Post. What it is talking about is where the jobless could be given jobs. I want to give validity to what I am saying. They are aware of this. The business community is also aware of what I am trying to do and very supportive, and the educators are, of course, too.

I have spoken with the leaders of the exploding high-technology industry from Virginia and Maryland, and they note that the boom has been so dramatic that they're worried about finding enough people to work for them. Then note the plight of the District, where businesses evaporate and unemployment is the highest in the region. The obvious but so far elusive solution: match the District of Columbia jobless with Northern Virginia jobs.

So this is known as an area of need. So what I am recommending with this amendment is that we ought to work together as a region. And this can be done nationally. I would say the Senator from North Carolina, when we discussed this some time ago, pointed out in North Carolina they have developed these things, and the South has been very astute. We in the Northeast and the rest of the country ought to be aware of what they are doing. They are working together in a region. They are inviting businesses to come in. They are creating skill training in order to make sure that they can get the jobs and get the businesses to locate in their States to provide them with what is necessary.

Now, I am hopeful that when the other States look at this they will realize, if we come in and just take a little bit of the money, which any other city in this country could do that is in this interstate situation, we must make sure we turn this city around and move it in the right direction, first, by fixing up the schools.

Now, certainly I am embarrassed, and I hope all of my colleagues are embarrassed, by the fact that this city has the worst school infrastructure in the country and that such a huge number of our schools are unfit. With $2 billion, I hope they would take notice and join me in trying to do something about it.

But I also point out that it does not make any difference to me how we do it. I would challenge the Senators from Virginia and Maryland, if they do not like the fact that some of the money may be taken from their State capitals and moved down into their counties near here or some into the District of Columbia, then suggest another alternative. I urge any of my colleagues to figure out how we can raise $2 billion over the next couple years so that we can get these schools fixed so we do not have to go through the difficult period of time each year of being embarrassed by the District of Columbia school system.

In winding up, I urge that we will get your attention because I think it is easy for us, as so many Members do when I talk to them, to say, ''Oh, that's Mayor Marion Barry's problem. He made a mess out of it.'' That may be true. But that is not the solution. We are responsible. We are the ones who have to come up with a solution, and if we do not do it, then I am sad for the kids in these schools. I am sad for the city, and I am sad for all of us who will be embarrassed, instead of having the Nation's Capital pointed to, as it could be, as a model to follow, and ridiculed and we feel so sorry for those kids.

Now, let me talk a little bit also about other things that can be done to help the city and that are being done. I have lived here now close to 25 years. I have lived right in the District. I have not gone out to the suburbs so I know what's going on here and I have seen it improved; I have seen it getting better; but I feel very responsible for it. And so I hope that we will see as we move forward that we can change this city around. I am hopeful that we will have that responsibility, recognize it and do something about it.

In addition to what I have already told you about, I would also like to mention what the private sector has been doing to assist. We ought to keep our eye on the private sector because they are showing us their ability through volunteering.

Let me talk about two programs that I have been working with the private sector. One looks at one of the most difficult problems the Nation has, and that is reading. You saw the record, the horrible record of the District of Columbia in reading. We have started a program called ''Everybody Wins!'' This is a lunchtime volunteer reading program that pairs caring adults with

elementary school children in Title 1 schools to help them learn to read and learn the value of reading and education. Senate volunteers go every Tuesday to the Brent School to read over here on the Hill and the House volunteers go down to the John Tyler school. All in all we now have around 300 House and Senate staff who read in the program. We began ''Everybody Wins!'' up here on the Hill to generate awareness with the private sector and others of how fantastic a program it is and how easy and effective it is to get involved and this year we will have about 1,200 volunteers all across the city who are reading to kids in first through sixth grades to make sure at the end of the third grade they know how to read—a great program. It is a non-profit educational foundation funded by the private sector, with the whole effort led by the PGA Tour and the Tour Wives Association. The PGA Tour is under the leadership of Commissioner Tim Finchem, who is really making children and education a priority, and I commend him for all his help. We have been able to raise some money each year at a fundraiser called ''Links to Literacy.'' The entire House and Senate leadership from both sides of the aisle joined me and Senator KENNEDY in spearheading this event. We will have another fundraiser this spring where ''everybody wins'' so that we can make progress toward our goal of having every elementary school child in the D.C. public schools read with an adult volunteer once a week at lunchtime.

Secondly, the area of greatest difficulty—and here is another area where the District of Columbia leads the Nation, I think—is school dropouts. Forty percent of the kids in the District of Columbia system who start do not finish, and that I tell you is very much related to the serious crime problem because 80 percent of the people that are in jails are school dropouts.

I traveled out to San Diego and visited a program there which was set up by the private sector called ''Operation FitKids.'' This program was founded by a man named Ken Germano who works in the fitness industry and who is passionately dedicated to underprivileged kids. He figured out a way for the fitness industry to donate used equipment to schools to create safe, educational fitness centers in the middle and high schools. Now you have to have the biggest and best equipment in order to attract people. I know I watch television. Every couple weeks there is a new way to tread the mill and those kinds of things. My colleague Senator KOHL has joined with me to bring this great program to the District of Columbia. This summer we were able to have half a million dollars worth of equipment that has been donated to four of the middle schools and high schools in our city's worst areas to help young people with a place to go to exercise and to communicate with each other and to learn life-long healthy habits. To make this work we had to form a partnership with a local university and American University stepped right up to the plate and we now will have a big launch event this Fall to get the word out about how more people can get involved.

Another area. Representative CASS BALLENGER has been working with the private sector and contractors, saying, will you help? Will you help do things with a little money? In other words, try to get donated whatever is needed to help fix these schools. And they say yes. Ballenger said, well, the problem is we can't do much about it because of the Davis-Bacon Act. And hopefully at the same time we do this we could get an agreement to lift the Davis-Bacon Act, or at least the size of contracts which are needed to be met so that we could take that money and do it with much less by being able to get around the Davis-Bacon Act.

So the private sector is ready to help. I am certainly ready to help. A number of my colleagues are. But it is up to the rest of the Senate and the House to really say we are going to make this capital the best in the country, not the worst. And right now we are embarrassed, and I am embarrassed, but I am hopeful a year from now we will be on the road to progress and I am going to do everything I can to make sure that we are on that road.

Mr. President, I am pleased to yield back the remainder of my time. I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1266) was withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. 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. 2203.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that at 5 o'clock today, the Senate proceed to the consideration of the conference report to accompany H.R. 2203, the Energy and Water appropriations bill. I further ask that the reading be waived and the conference report be limited to the following debate time: the two managers, 10 minutes each; Senator MCCAIN up to 10 minutes. I further ask unanimous consent that immediately following the expiration of the time, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NOS. 1267, 1268, 1269, EN BLOC

Mr. BYRD. Mr. President, I send three amendments to the desk. I ask unanimous consent they be considered en bloc. I have discussed this with the manager of the bill. He understands that I am going to make this request, and he has no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes amendments 1267, 1268, 1269, en bloc.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1267

(Purpose: To prohibit alcoholic beverage advertisements on billboards, signs, posters, and other forms of advertising in certain publicly visible locations in the District of Columbia where children are likely to walk to school or play)

At the appropriate place, insert the following:

SEC. . (a) Chapter 29 of title 12A of the District of Columbia Municipal Regulations (D.C. Building Code Supplement of 1992; 39 DCR 8833) is amended by adding the following 2 new sections 2915 and 2916 to read as follows:

''2915.0 Alcoholic Beverage Advertisements.

''2915.1 Notwithstanding any other law or regulation, no person may place any sign, poster, placard, device, graphic display, or any other form of alcoholic beverage advertisements in publicly visible locations. For the purposes of this section 'publicly visible location' includes outdoor billboards, sides of buildings, and freestanding signboards.

''2915.2 This section shall not apply to the placement of signs, including advertisements, inside any licensed premises used by a holder of a licensed premises, on commercial vehicles used for transporting alcoholic beverages, or in conjunction with a one-day alcoholic beverage license or a temporary license.

''2915.3 This section shall not apply to any sign that contains the name or slogan of the licensed premises that has been placed for the purpose of identifying the licensed premises.

''2915.4 This section shall not apply to any sign that contains a generic description of beer, wine, liquor, or spirits, or any other generic description of alcoholic beverages.

''2915.5 This section shall not apply to any neon or electrically charged sign on a licensed premises that is provided as part of a promotion of a particular brand of alcoholic beverages.

''2915.6 This section shall not apply to any sign on a WMATA public transit vehicle or a taxicab.

''2915.7 This section shall not apply to any sign on property owned, leased, or operated by the Armory board.

''2915.8 This section shall not apply to any sign on property adjacent to an interstate highway.

''2915.9 This section shall not apply to any sign located in a commercial or industrial zone.

''2915.10 Any person who violates any provision of this section shall be fined $500. Every person shall be deemed guilty of a separate offense for every day that violation continues.''.

(b) The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 1268

(Purpose: To increase the number of ABC inspectors in the District of Columbia and focus enforcement on sales to minors)

On page 49, between lines 13 and 14, insert the following:

SEC. 148. There are appropriated from applicable funds of the District of Columbia such sums as may be necessary to hire 12 additional inspectors for the Alcoholic Beverage Control Board. Of the additional inspectors, 6 shall focus their responsibilities on the enforcement of laws relating to the sale of alcohol to minors.

AMENDMENT NO. 1269

(Purpose: To require the General Accounting Office to study the effects of the low rate of taxation on alcohol in the District of Columbia)

At the appropriate place, insert the following:

SEC. . (a) Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall conduct and submit to Congress a study of—

(1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions;

(2) the effects of the District of Columbia's lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in the District of Columbia;

(3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and

(4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol among young people.

(b) The study should consider whether—

(1) alcohol is being sold in proximity to schools and other areas where children are likely to be; and

(2) creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

Mr. BYRD. Mr. President, I rise today to address an issue that concerns me and, in my opinion, does not receive enough attention, enough attention or enough action by the Congress. This is the issue of youth alcohol use. It is a serious problem in the District of Columbia, as it is throughout the Nation.

Alcohol is the drug that is used most by teens. If we are concerned about drug use by teens, this is the drug that is used most by teens. Information compiled by the National Center on Addiction and Substance Abuse indicates that, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol.

Let me say that again. Among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol. That is not a very good reflection on their parents, I would say. In the last month, approximately 8 percent of the Nation's eighth graders—now, get that—in the last month, approximately 8 percent of the Nation's eighth graders have been drunk. What are we coming to? Eighth graders—8 percent of the Nation's eighth graders have been drunk. What does that say about the parents? What does it say about this Nation of ours? Eighth graders are generally 13-year-olds. Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. Unfortunately, though, two out of every three teenagers who drink report that they can buy their own alcoholic beverages.

Alarmingly, junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. Yet, again, every State and the District of Columbia have laws prohibiting the sale of alcohol to individuals under the age of 21. Alcohol is a factor in the three leading causes of death for 15- to 24-year-olds: accidents, homicides, and suicides. In approximately 50 to 60 percent of youth suicides, alcohol is a factor. Alcohol is involved. In 1995, there were 1,666 alcohol-related fatalities of children between the ages of 15 and 19. Drinking and driving kills. Links have also been shown between alcohol use and teen pregnancies. And links have been shown between alcohol use and sexually transmitted diseases.

According to a Washington Post article from July 17, 1997, entitled, ''The Corner Store,'' the District outranks every State with regard to deaths and diseases related to alcohol. In addition, according to Joye M. Carter, chief D.C. medical examiner, in 1993, 50 percent of the homicide victims had consumed alcohol.

In order to begin to address the distressing cost of alcohol to this city, and its children, I am offering three commonsense amendments to this bill, the District of Columbia Appropriations Act for fiscal year 1998. The amendments I have sent already to the desk.

The first one would prohibit alcoholic beverage advertisements on billboards, signs, and posters and other forms of advertising in certain publicly visible locations in the District of Columbia where children are likely to walk to school or to play. I believe this is an important, commonsense measure to help to shelter innocent children of the District of Columbia from the daily bombardment of messages tempting them to partake of alcoholic beverages. There is a lot of fuss made about advertisements concerning smoking. Nothing is said about advertisements concerning alcohol. That, apparently, is taboo.

Competitive Media Reporting estimates that the alcoholic beverage industry spent more than $1 billion on alcohol advertising in 1995. That is an enormous amount of money, and this advertising is often crafted to particularly appeal to impressionable children. Our children are bombarded with slick and ingenious messages that drinking alcohol will lead to popularity; you will be popular; it leads even to good looks, and leads to a magnetic personality. Nothing could be further from the truth, of course. Drinking alcohol more often leads to wrecked automobiles, unwanted sex, coarse and stupid behavior, and more often than we like to contemplate, a space in the cemetery with a tombstone resting above—especially in the case of young drinkers. Ads filled with singles playing exciting outdoor sports, or sophisticated adults combining alcohol with an elegant evening out, mask the darker view of children cringing and hiding when Daddy weaves drunkenly through the door from a bleary-eyed evening spent in the company of a bottle, or several bottles.

Similar bans have been enacted in Baltimore and Chicago to protect children in those cities. Why not here? Given the large number of liquor stores in the District and the number of signs enticing children to try a substance that they are barred from using by law, it is important that we take action now. Let us not delay and miss this opportunity to make a positive difference for the District's children.

It is my understanding that similar legislation is currently pending before the D.C. Council. It is not clear whether the council will act expeditiously on this important matter. Thus, it is incumbent upon the Congress to provide this important protection to the District of Columbia's children as they walk to school and as they play in their neighborhoods. In my opinion, the amendment, although I believe it is crafted to survive legal challenges, does not go as far as I would like in protecting the District's children. I urge the council to explore additional ways to expand this protection.

I am sure that some will challenge this amendment, arguing that commercial speech is protected from such bans under the First Amendment. As a matter of fact, the beer industry challenged the Baltimore ordinance banning outdoor, stationary alcoholic beverage advertising which is almost identical to my amendment. The circuit court has upheld the Baltimore ordinance as constitutional.

Children cannot readily interpret media messages. Their ability to analyze information is not yet fully developed, and, thus, they are more vulnerable to being swayed by advertisements. This fact is of particular concern when the substances being advertised are illegal for consumption by minors. According to the U.S. Court of Appeals, Fourth Circuit, in Anheuser-Busch, Incorporated versus Schmoke:

> This decision thus conforms to the Supreme Court's repeated recognition that children deserve special solicitude in the First Amendment balance because they lack the ability to assess and to analyze fully the information presented through commercial media.

The Fourth Circuit decision goes on:

> After our own independent assessment, we recognized the reasonableness of Baltimore City's legislative finding that there is a ''definite correlation between alcoholic beverage advertising and underage drinking.'' We also concluded that the regulation of commercial speech is not more extensive than necessary to serve the governmental interest. . .

Mr. President, in addition to its decision, the Court determined that Baltimore's ordinance was not more restrictive than necessary to accomplish the stated goal of protecting children from alcoholic beverage advertising.

The Court of Appeals specifically cited the ordinance's inclusion of an exemption, which is also included in my amendment, for commercial and industrial areas. According to the decision, ''* * * Baltimore's efforts to tailor the ordinance by exempting commercial and industrial zones from its effort renders it not more extensive than is necessary to serve the governmental interest under consideration.''

The exceptions to the ban included in my amendment are numerous and result in a narrowly tailored approach to achieving the goal of protecting children in areas they frequent while staying within the confines of permissible restrictions on commercial speech under the Constitution. Banning billboard advertisements for alcoholic beverages where children play and go to school are reasonable safeguards that communities can take to address youth alcohol use. So, I urge my colleagues to join me in this worthwhile and narrowly tailored effort to protect the children of our Nation's Capital.

My second amendment, Mr. President, would increase the number of Alcohol Beverage Control Board inspectors in the District and focus enforcement on the sale of alcoholic beverages to minors. The D.C. Alcohol Beverage Control Board has just three inspectors in the field in addition to their chief, who also performs inspections of alcohol outlets. These four inspectors are responsible for monitoring over 1,600 alcoholic beverage outlets. This is a sad state of affairs for a city that has more alcohol-influenced crime than any other city of comparable size. In contrast, Baltimore employs 18 regular inspectors in addition to a number of part-time inspectors.

It is illegal for persons under the age of 21 to purchase, possess, or consume alcoholic beverages in the District. In addition, the sale of alcoholic beverages to minors is prohibited. However, these laws are not being adequately enforced.

In May of this year, the Center for Science in the Public Interest [CSPI] conducted a sting operation at small grocery and convenience stores in which alcoholic beverages are sold. The sting operation used youthful looking twenty-one-year-olds to purchase beer. In 63 percent of the cases, the young looking subjects were able to buy beer without presenting age identification—63 percent of the cases. Clearly this is not good news. It is not legal to sell alcoholic beverages to minors. The low probability of enforcement of this law results in lax age identification checks. My amendment strengthens the District's ABC enforcement efforts by bringing the number of inspectors up to a level comparable to other cities of this size. It is my hope that my colleagues will join me in this important effort to address the serious issue of alcoholic beverage sales to minors.

My third amendment calls for the General Accounting Office [GAO] to conduct a study on the District's alcoholic beverage excise taxes. It is my understanding that the level of taxation in the District is amongst the lowest in the Nation. According to local activists concerned about the effects of alcohol consumption on the District, raising the excise tax on alcohol could be the single most effective means of reducing alcohol consumption in the District. This amendment would require the General Accounting Office to study: (1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions; (2) the effect of D.C.'s lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in D.C.; (3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and (4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol amongst young people.

The study would also explore whether alcohol is being sold in proximity to schools and other areas where children are likely to be. In addition, would the creation of alcohol free zones in areas frequented by children be useful in deterring under-age alcohol consumption?

These are important issues. They are important issues that ought to be explored. The information obtained in the study will be useful in determining the need for possible future adjustments of the excise taxes in the District on alcohol that might reduce the high costs that alcohol abuse imposes on the District of Columbia.

The District of Columbia is our Nation's Capital, a centerpiece for our Nation's Government, as well as a hometown for 600,000 people. It should be a shining star in the constellation of American cities, but it is not. Sadly, that star is tarnished by neglect, abuse, and by the complex forces that hold sway over and within it. The corrosive effects of alcohol abuse further erode its beauty and grandeur. I believe that these three amendments make a positive step toward repairing the District so that it might claim its rightful place at the pinnacle of American metropolitan areas.

Mr. President, I ask for the yeas and nays on the amendments en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments, en bloc, be set aside temporarily to a time when the leadership would find it most convenient for Members to have the vote.

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

Mr. FAIRCLOTH. Mr. President, the three amendments offered by Senator BYRD will be voted on en bloc, and we want to set them aside until the leadership arranges a vote.

The PRESIDING OFFICER. The amendments have been set aside.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. 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

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the votes occur on the amendments offered and considered en bloc by Senator BYRD immediately following the vote on the energy and water appropriations conference report and that one vote count as three votes.

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

Mr. FAIRCLOTH. Mr. President, again, 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. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. FAIRCLOTH. Mr. President, I modify my consent request with respect to the Byrd votes, that one vote count as only one vote.

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

Mr. FAIRCLOTH. 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. HOLLINGS. 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. HOLLINGS. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business and my remarks not interrupt the pending amendment.

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

THE DEFICIT

Mr. HOLLINGS. In his book ''Breaking the News,'' Jim Fallows writes: ''If the public is confused, alienated, pessimistic or hostile to government, that is only partly the public's fault. . . .'' And he goes on to say, ''Journalism should lead the public by pointing out realities.''

So I briefly point out a reality, Mr. President, to the Congress here this

afternoon. In ''The Economic and Budget Outlook'' of the Congressional Budget Office—the authority with respect to budgetary figures such as the balanced budget, deficits and surpluses—we find on page 34, Mr. President, the reality that while, yes, a unified deficit is listed as $34 billion, the actual deficit for the year 1997 that ends at midnight tonight is $177 billion. That is the deficit. The media should report this, the reality, and not the fraudulent unified deficit. We are spending $177 billion more than we are taking in.

The unified deficit is $34 billion because they count the surpluses from the airports, the highway trust funds, Social Security, and the military and civil service pension funds—billions of dollars moved over. But that does not obscure the fact, nor it should not obscure the fact, that as of this fiscal year, when we are all talking about wonderful reductions in deficits, we are running a real deficit of $177 billion.

Now, Mr. President, 5 years out when we all say, ''Oh, we have a balanced budget for the first time since Lyndon Johnson,'' and everyone is running around shouting ''balance!'' there will be no balance, according to the Congressional Budget Office. In the year 2002, the deficit, rather than being in balance, will be $161 billion. And that assumes optimistically that 95 percent of the domestic cuts occur in the last 2 years.

I can assure the distinguished Senator from North Carolina that the deficit will be bigger 5 years out than it is today, at the end of this fiscal year. Looking at the figures across the board for the next 5 years, I see that the CBO forecasts next year's deficit to be $210 billion; the year following that, 1999, the deficit will be $226 billion. Go across the board and you will find out the so-called balanced budget actually increases the national debt by $1 trillion.

Now why is that dangerous? That is dangerous because you cannot avoid the interest costs on the national debt. The national debt is now in excess of $5.3 trillion, and going up to over $7 trillion in the next 10 years.

Mr. President, the Congressional Budget Office estimates that even with low-interest rates we will spend $358 billion in the next year just servicing the national debt. This amounts to almost $1 billion a day. This is $1 billion a day we cannot spend on new roads or schools. The first thing the Government does every day is borrow another $1 billion to pay interest on the national debt. Now, if you managed your family finances or your business this way, you would not last long; but we are doing it.

All this reminds me of Denny McLain. He was convicted earlier this year of using his company's pension fund to pay off his company's debt. You see, we passed the Pension Reform Act of 1994, and when Denny violated that act, he was sentenced to 8 years in prison. If you can find what prison he is in, tell Denny he made a mistake. He should have run for the Senate: instead of getting a prison sentence, he would have gotten the Good Government award. That is what we are doing around here—stealing from the American people's pension funds. And we are patting each other on the back. This is a sweetheart deal. Both parties are agreeing to lie to the American people so that we can proclaim the budget is balanced.

The truth of the matter is, we have a deficit now, and we will still have one in 2002. This year's much-ballyhooed budget deal increases spending $52 billion and cuts revenues $95 billion. Now, how can you balance anything by increasing your spending and cutting your revenues? You can't. But that is what we are claiming. It is Rome all over again, and we are trying to make the people happy with bread and circuses. Only today, the Congress' circuses are spending increases and tax cuts and shouts of ''balance, balance, balance.''

I yield the floor, Mr. President. I thank the distinguished Presiding Officer and my colleague from North Carolina.

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. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that the time be equally divided.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the conference a report on (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998.

The report will be stated.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the (Senate or House) to the (H.R. 2203) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1997.)

Mr. DOMENICI. Madam President, on July 16, the Senate passed its version of the Energy and Water Development Act for fiscal year 1998 by a vote of 99 to 0. Since that time, the House has passed its version, which in some cases was quite different than the Senate version, and conferees have resolved the differences between the two bills.

At times, those negotiations were difficult. However, the final result is a well balanced bill I believe should be supported by all my colleagues—it certainly was well received by the House which passed it a few hours ago by a vote of 404 to 17.

In summary, the bill provides $21,209,623,000, a reduction of $1,895,701,000 from the amount of the request and $57,421,000 below the level recommended by the Senate, for programs with the jurisdiction of the subcommittee. Details are provided in the report which was filed last Friday and has been available to Members since Saturday when it was printed in the RECORD.

There are a few matters that need clarification.

The conferees included language in the conference report commending the Department on the tremendous advances made in pulsed-power technology in the past year. Because of uncertainties, which I will discuss in a moment, in the level of funding needed for the pulsed power program in the coming fiscal year, a level was not specified. However, the conferees have indicated that the Department should support continued Z-physics and diagnostics in the coming year.

A robust pulsed power program in the coming year might include $13,000,000 for continued Z-machine physics, $5,000,000 for backlighting, and an additional $7,000,000 for the conceptual design of the next generation pulsed power machine; X–1. However, there may be less expensive ways to achieve backlighting, and the schedule for a next generation machine would be better determined following additional experiments on the existing machine. For those reasons, it is impossible to specify a level of funding for the coming year. However, the Department should continue Z-physics experiments with those objectives in mind.

The conferees agreed to a provision that would prohibit the Department of Energy from awarding, amending, or modifying any contract in a manner that deviates from the Federal acquisition regulation, unless the Secretary grants, on a case-by-case basis, a waiver to allow for such deviation. In the statement of managers, the conferees direct the Department to be cognizant of and utilized provisions of the Federal acquisition regulation that permit exceptions to the Federal acquisition regulation and provisions intended to address the special circumstances entailed by management and operating contracts. I want to clarify that, if the Department utilizes those provisions of the Federal acquisition regulation that permit exceptions to the Federal acquisition regulation or that address the special circumstances of management and operating contracts, it will not be necessary for the Secretary to obtain a waiver for those cases; the use of such provisions will not be considered a deviation from the Federal acquisition regulation.

Due to a production error, report language agreed to by conferees from the House and Senate was inadvertently excluded from the joint statement of the managers. The text of that language is as follows:

With respect to funds appropriated in fiscal year 1993 and made available to the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, the conferee strongly recommend that the Department disperse these funds only in accordance with the original intent to place the facility on property owned by the Research Park Corporation in Baton Rouge, Louisiana or contiguous property thereto owned by Louisiana State University, Baton Rouge.

We fully expect that the Department of Energy and interested stakeholders will regard this language as though included in full in the joint explanatory statement of the committee of conference.

The conference report contains a provision requiring the Bureau of Reclamation [BOR] ''to undertake a study of the feasibility of using the Mount Taylor mine as a possible source of water supply for the City of Gallup.'' While the background material for this study clearly indicates that this study will include the impacts of such water use on other users, such as the Laguna and Acoma Indian Pueblos, I would like to clarify today that it has been my intention, as verified in the detailed project description, to include these Indian Pueblos as possible beneficiaries of available water supplies from the Mount Taylor mine or its environs.

Like other water users in the Mount Taylor area where water is scarce, any new and potable water resource would be most welcome. The Laguana and Acoma Pueblos are east of Mount Taylor, Gallup is to the west, and the private mine that is the focus of the study is on the western slope of Mount Taylor. The Canoncito Band of Navajo Indians are also to the east of Mount Taylor, new Laguna Pueblo. The feasibility of providing Mount Taylor water to these Indian Tribes is included in the details of the planned BOR study.

As stated in the project study description, ''Some potential exists for the Mt. Taylor pipeline project to be integrated into a regional water supply network along the Interstate 40 corridor.'' Depending on the findings of this study ''to verify the quantity, quality, and expected life of the water source,'' there are many potential beneficiaries. It is my intention, as stated in the project narratives, to do our best to include as many potential water users along this corridor as possible. I thank the Chair for this opportunity to clarify an important section of this bill for these potential water users from the Mt. Taylor source.

Madam President, I would like to thank my friend and colleague from Nevada for his help on this legislation. This is Senator REID's first year as ranking member of the subcommittee and it has been a most productive year. I greatly appreciate his cooperation and look forward to many years of working together.

Madam President, I am merely going to remind the Senate that when we are in conference with the House, sometimes we get our way, sometimes they get their way. As a matter of fact, most of the items that the distinguished Senator from Arizona is concerned about were House matters, as I listened to them and as my staff tells me about them.

Frankly, everybody in this body that has been here for any period of time knows that when you go to conference with the House, they have to get some things that are theirs and we have to get some things that are ours, and we have to compromise on others. I want the Senate to know that, in terms of overall expenditures, this bill is $1.8 billion in budget authority under the request of the President. That means we have done things differently than the President. In some areas, we have gone up and in some areas we have gone way down from where he wanted us to be. When you add them altogether, water projects, which are more than the President wanted and, obviously, the House wanted far more water projects than we did—and there again it is a question of working with both bodies—add up the water, nondefense, energy, research and the defense part, and it is about $1.8 billion below what the President of the United States requested.

Madam President, again, let me give a little recap on the bill and then yield to my friend Senator REID. Madam President, on July 17, the Senate passed its version of the Energy and Water Development Act by 99 to 0. Since that time, the House passed its own version of the bill, and last week, as implicit in my remarks, conferees for the two bodies met to work out differences, and there were many that dealt with many millions of dollars.

The bill started off quite differently. The Senate bill had $810 million over the House bill on defense matters. On the nondefense side, though, the allocations were very similar. The House had proposed spending approximately $300 million less on the Department of Energy nondefense programs and about $300 million more on water projects. It is obvious that those are extremely large differences. The full committee of appropriations decided that the allocation that the House received on the entire bill was too low. Some adjustments were made, both on the defense and nondefense side, which permitted us to get together and bridge some remaining gaps that were indeed very serious.

This bill provides what we need for stockpile stewardship to maintain the trustworthiness of our nuclear weapons, to participate adequately in the builddown, which is extremely technical and highly scientific, without building any new weapons, and without any underground testing—to make sure that our weapons are safe and reliable—which is a new concept called science-phased stockpile stewardship.

That represents a little over $4 billion in this bill. And I imagine for a long period of time we will be spending something like that, or more, because apparently we are not going to do any underground testing. That means that scientists have to use new methods built around large computers, and testing in other ways; and scientific instruments that will measure the validity of our nuclear weapons without having them tested.

In addition, there is some very excellent research that everybody thinks ought to take place. Much of it is not necessarily in direct energy research but has to do with basic physics wherein some of the best physics research in the world takes place under the auspices of this bill.

We are busy trying to do our very best to maintain the stewardship of the weapons; to see what the reality of the future lies therein; to take care of the basic research for this, which is one of the three or four major areas for research in science-based physics, and the like, found in this bill; and, at the same time to satisfy many requests for Members about water projects.

It has been a very exceptional year of many floods with many of the levies being torn down, and much work having to be done, especially in the southern part of America regarding flood damage. Much of that is in this bill—and an orderly manner of authorizing the Corps of Engineers to get on with some of it. They will be rather busy. They have received authority to start a number of new projects.

But I am hopeful that in the final analysis the President will sign this bill, and that the U.S. Senate will overwhelmingly support it.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. It is my understanding that, under the unanimous-consent agreement, I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Madam President, the Senate will shortly vote to adopt the conference agreement on the fiscal year 1998 energy/water appropriations bill. And unfortunately, this bill is laden with pork-barrel spending, much of which was considered by neither the House nor the Senate as part of the normal appropriations process.

I count seven projects for which funds are earmarked in the bill language that were not included in the bill that passed either the Senate or the House. Let me list these seven projects for the benefit of my colleagues who are not members of the Appropriations Committee.

First, there are three projects earmarked in the legislative language agreed to by the conferees for reimbursements to non-Federal sponsors of work in Texas:

There is $150,000 for the White Oak Bayou watershed in Texas. The House added a line item for this unrequested project in its report; the Senate never considered it. Yet it is now included in the conferees' legislative language.

There is $500,000 for the Hunting Bayou element and another $2 million for the Brays Bayou portion of the flood control project in Buffalo Bayou, TX. In its report, the House cut the $1.8 million requested for this project, while the Senate included the line item in its report at the requested amount of $1.8 million. Neither body included an earmark in legislative language, but the conferees approved an earmark of $2.5 million which is almost $700,000 more than the amount requested.

Another legislative earmark approved by the conferees is $4 million for the Army Corps of Engineers to dredge Sardis Lake, MS, so that the city of Sardis may proceed with development of the lake. The conferees directed the corps to conduct or pay for environmental assessments and impact studies required under the Sardis lake recreation and tourism master plan, phase II. This provision was in neither bill.

The conferees included bill language to earmark $6 million for the Corps of Engineers to extend navigation channels on the Allegheny River to provide passenger boat access to the Kittanning, PA, Riverfront Park. This project was mentioned in the House report, but was not included in either bill.

Another earmark that migrated from the House report to the conference bill language is $2.5 million of corps' operations funds to intercept and dispose of solid waste upstream of Lake Cumberland, KY.

Another earmark that moved from Senate report language to the conference bill language is $6.9 million from Tennessee Valley Authority funds for operation, maintenance, surveillance, and improvement of Land Between the Lakes.

These seven provisions, earmarking over $32 million for these specific projects, were added to the bill language in conference. I don't know why the conferees chose to add emphasis to these provisions by including them as earmarks in the bill language, instead of including them, as is the normal process, in the report language if they were approved by the conferees. Only the conferees could explain that decision.

However, Madam President, in at least one instance, it is clear that the conferees chose to add a wholly new provision to this bill. And they did this behind closed doors, without benefit of public or full congressional review.

Madam President, the Congress has a process for considering legislation. That process relies on full and open consideration of the President's budget and policy requests, as well as fair and open consideration of Members' requests for added funding or new policies. That process, when followed, makes it possible for all Members of the Congress, not just those who serve on the Appropriations Committees, to have an opportunity to review the legislation on which we must vote.

This bill, at least in part, bypassed that normal process. Unfortunately, the decision of the conferees to bypass the normal authorization and appropriations process is one of the reasons the American people do not trust the Congress to do what the people desire.

Madam President, I do not mean to give the impression that this bill does not provide necessary and appropriate funding for important projects that will benefit our Nation. Funding is included for flood control and water projects, nuclear energy and weapons activities, environmental restoration of contaminated properties, and other important projects that are necessary and valid. The majority of the funding recommendations in this bill are ones that I fully support.

But I am saddened by the blatant examples of pork-barrel spending in this bill. And because this bill is not amendable in its present form, there is, unfortunately, nothing that I or any other Member of this body can do to eliminate these spending items.

Madam President, I ask unanimous consent that a list of objectional provision in this conference agreement be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN H.R. 2203, CONFERENCE AGREEMENT

BILL LANGUAGE

Earmarks funds for 15 specific projects, including feasibility studies, from general investigations account of Army Corps of Engineers, including 2 projects not in either bill [$500,000 to reimburse the non-Federal sponsor of the Hunting Bayou element of the flood control project in Buffalo Bayou, Texas; and $150,000 to reimburse the non-Federal sponsor of the flood control project in the White Oak Bayou watershed in Texas]

Earmarks funds for 40 specific projects from Army Corps of Engineers construction account, including 1 project not in either bill [$2 million to reimburse the non-Federal sponsor of the flood control project in the Brays Bayou portion of the Buffalo Bayou, Texas]

Earmarks funds from Army Corps of Engineers flood control funding for 3 specific projects, including 1 project not in either bill [up to $4 million to dredge Sardis Lake, Mississippi, so that the City of Sardis may proceed with development of the lake, including direction to pay for environmental assessments and impact studies required under the Sardis Lake Recreation and Tourism Master Plan, Phase II]

Earmarks funds for 9 projects from Army Corps of Engineers operation and maintenance account, including 2 projects not in either bill [$6 million for navigation channels on the Allegheny River to provide passenger boat access to the Kittanning, Pennsylvania, Riverfront Park; and $2.5 million to intercept and dispose of solid waste upstream of Lake Cumberland, Kentucky]

Section 101—Earmarks $5 million for the Army Corps of Engineers to provide planning, design, and construction assistance to non-Federal interests in carrying out water related environmental infrastructure and environmental resources development projects in Alaska [Senate had provided $10 million in nationwide authority; conferees cut funding half but limited application of section to Alaska]

Appropriates additional $10 million above the budget request for Appalachian Regional Commission (for a total of $170 million)

Earmarks $6.9 million, not in either bill, from Tennessee Valley Authority funds for operation, maintenance, surveillance, and improvement of Land Between the Lakes

Section 507—Increases the appropriations ceiling for construction of the Chandler Pumping Plant in Arizona from $4 million to $13 million.

Section 508—Revises a 1977 recreation cost-sharing agreement between the State of West Virginia and the U.S. to: allow West Virginia to receive credit toward its required contribution for the cost of recreation facilities at Stonewall Jackson Lake in West Virginia, which are constructed by a joint venture of the State of West Virginia and a private entity; remove the requirement that these facilities be owned by the Government when completed; and prohibit any reduction in Government funding for the project.

REPORT LANGUAGE

[NOTE: States that language in either House or Senate report that is not specifically addressed in the conference report remains the intent of the conferees. Following list identifies only those earmarks specifically included in the conferees' statement of managers.]

Army Corps of Engineers

Extensive report language clarifies detailed instructions of conferees for expenditure of Army Corps of Engineers projects added in the tables on pages 40–68 of the report. For example:

$200,000 earmarked ''to accelerate work on the feasibility study for the development of a comprehensive basin management plan for navigation, including recreational navigation, environmental restoration, and water quality for the Dog River, Alabama, watershed''

$200,000 earmarked ''to modify the Lower West Branch Susquehanna River Basin Environmental Restoration, Pennsylvania, reconnaissance study to address the wide range of complex water resources problems in the large study area which includes Clinton, Northumberland, Lycoming, Sullivan, Tioga, and Union Counties, Pennsylvania''

''$2,000,000 for the development of strategies for the control of zebra mussels''

Includes directive and support language which falls short of earmarking funds, such as:

''[T]he conferees expect the Corps of Engineers to give priority to projects that protect the environmental, historic, and cultural resources of SMITH Island, Maryland and Virginia.''

''The attention of the Corps of Engineers is directed to the following projects in need of maintenance of review: Alabama-Coosa River navigation system; Brunswick Harbor, Georgia; and Little and Murrells Inlet in South Carolina.''

''Not later than 30 days after the date of enactment of this Act, the Secretary of the Army . . . is urged to make a final decision with respect to permits . . . for the replacement of the existing 350-foot wood dock with a 400-foot concrete extension of the existing Terminal 5 dock (including associated

dredging and filling) in the West Waterway of the Duwamish River in Seattle, Washington. The Secretary shall not reject that application on the basis of any claim of Indian treaty rights, but shall leave any question with respect to such rights to be determined in the course of judicial review of his action. . . .''

Bureau of Reclamation

Extensive report language clarifies detailed instructions of conferees for expenditure of Bureau of Reclamation funds added in the tables on pages 74–79 of the report. For example:

$1 million to complete the in-situ copper mining project, and $300,000 for Bureau oversight and technology transfer associated with the project

$1.5 million for completion of design and initiation of construction of the fish screen at the Contra Costa Canal intake at Rock Slough in California; $5 million for a fish screen project in Reclamation District 108; $2.625 million for a fish screen project at Reclamation District 1004; and $2.5 million for fish screen projects in Princeton-Glenn–Codora and Provident Irrigation Districts

$300,000 for Bureau of Reclamation to work with local interests to identify the most effective voluntary water conservation practices applicable to the Walker River Basin in Nevada, and to quantify the contribution that voluntary conservation can make to solving the water resources problems in Walker Lake and the basin as a whole

$1.45 million under fish and wildlife management and development for the Bureau of Reclamation to undertake Central Arizona Project fish and wildlife activities

Department of Energy

Extensive report language clarifies detailed instructions of conferees for expenditure of Department of Energy funds. For example:

$1.5 million of the funding for photovoltaic energy systems is ''directed to university research to increase university participation in this program and to fun the acquisition of photovoltaic test equipment at the participating institutions''

Directed allocation of biomass/biofuels funding, including: $150,000 for gridley rice straw project, ''27 million for ethanol production, including $4 million for the biomass ethanol plant in Jennings, Louisiana; and $2.5 million for the Consortium for Plant Biotechnology Research

$1 million for a research and development partnership to manufacture electric transmission lines using aluminum matrix composite materials

Direction to ''include appropriate laboratories, industry groups, and universities'' in the $7 million university reactor fuel assistance and support program; the conferees state, ''None of the funds are to be provided to industry and no less than $5 million is to be made available to universities participating in this program.''

Direction to ''assess the cost of decommissioning the Southwest Experimental Fast Oxide Reactor site in Arkansas'' and provide a report to Congress

Earmark of $3 million for a ''rigorous, peer-reviewed research program that will apply the molecular level knowledge gained from the Department's human genome and structural biology research to ascertain the effects on levels ranging from cells to whole organisms that arise from low-dose-rate exposures to energy and defense-related insults (such as radiation and chemicals)'', and directs the Department to ''develop a multi-year program plan, including budgets, for the subsequent ten years''

$4 million to upgrade a nuclear radiation center to accommodate boron neutron capture therapy at University of California-Davis

$7.5 million for design, planning, and construction of an expansion of the Medical University of South Carolina's cancer research center, to provide areas for utilization of positron emission tomography, using metabolic bio-markers, a ribozyme-based gene therapy

$2 million for Englewood Hospital in New Jersey for breast cancer treatment using condensed diagnostic process

$10 million for the Northeast Regional Cancer Institute for innovative research supporting the Department's exploration of microbial genetics

$2.5 million for design, planning and construction of a science and engineering center at Highlands University in Las Vegas, New Mexico

$30 million add-on for infrastructure and equipment needs at the national laboratories and Nevada test site

$10 million for the American Textile Partnership (AMTEX)

$10 million for the Swan Lake-Lake TyeeIntertie project of the Alaska Power Administration

Includes directive and support language which falls short of earmarking funds, such as:

Conferees ''support the peer-reviewed nuclear medicine research program in biological imaging at the University of California Los Angeles and strongly encourage the Department to fully fund that research in fiscal year 1998''

Conferees ''recognize the capability and availability of resources at the University of Nevada-Las Vegas to store data and scientific studies related to Yucca Mountain and encourage the Department to maximize utilization of this resource''

Tennessee Valley Authority:

Directs TVA to relocate power lines in the area of the lake development proposed by Union County, Mississippi, and assist in preparation of environmental impact statements, where necessary

Mr. McCAIN. Of course, this conference agreement contains other objectionable provisions in the bill, as well as the usual earmarks in the report language.

Madam President, I plan to write to the President recommending that he veto the line items in this bill that are unnecessary and wasteful, particularly those that were added without benefit of public or congressional review.

Madam President, I want to tell the distinguished managers of the bill again of my deep disappointment that they would add seven projects in conference that totals $32 million and which were in neither bill, along with the usual unnecessary and wasteful projects. I think it is an abrogation of my ability as a U.S. Senator to vote for these projects, and I deeply resent it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, my good friend from Arizona, the neighbor to the State of Nevada, pointed out seven projects which he objected to. These are all in the House budget.

But I would say to the Senate, and anyone who is in the sound of my voice, that these are seven projects out of hundreds and hundreds of projects. He complains that this bill is a $21 billion bill. And we should waste no Government money—not a single penny. But I have to say that in picking seven relatively small projects out of a $21 billion bill I think the Senator from New Mexico and I in managing this bill did a pretty good job. This bill provides many different things.

I would also say before leaving that subject that the Senator from Arizona, my good friend, also talks about things being done without authorization. The House is very, very tough on making sure that things are authorized. Congressman MCDADE, chairman of the subcommittee on the House side, has been very strict on that. However, I want to make sure that everyone understands that this bill provides a number of dollars for many different projects.

Let's take, for example—I will not take any of the things in Nevada for obvious reasons. But let's take the sister State of California: $6 million to dredge and deepen Long Beach Harbor. This deepening will significantly improve sea trade up and down the west coast, and in the Asia-Pacific basin. It will even reduce the transportation costs of oil that is being brought down from Alaska. That is one example for $6 million.

The bill also provides $10 million to restore the sensitive Everglades ecosystem which has been damaged for decades by agricultural production.

Those are only two examples. There are numerous flood control projects throughout the country that will prevent significant personal and economic loss.

This is of particular importance in light of El Nino which may bring unusually heavy rains, as it already has to the western part of the United States.

These floods projects are important. It is a relatively small part of the bill. But they are important projects.

Madam President, the Corps of Engineers is one of the last great bastions of infrastructure development in this country. You can just take the bill itself and look at some of the flood control projects. You can look at them in Arkansas at a place called American River Watershed; in Colorado, at a place called Alamosa; you can look at Florida and many different places, including the Everglades that we have already talked about; Hawaii, at a place called Wailupe Stream; in Illinois, Reno Lake; Indiana, the Fort Wayne metropolitan area; you can talk about Kansas, Kentucky, Louisiana. All through this country there are flood control projects that are going to save lives and property. That is one of the main parts of this bill.

I am somewhat concerned that someone would indicate that this bill is fluffed. It is far from that, Madam President.

I would like at this time to make sure that the RECORD is spread with the fact that this is a bill that has reached the Senate floor as a result of bipartisanship. The chairman of the subcommittee, the senior Senator from New Mexico, and I worked hand in glove this past 10 months to arrive at the point where we are now asking the Senate to approve this conference report.

So I want to extend my appreciation to the Senator from New Mexico, and also extend my appreciation to my clerk, Greg Daines, and Liz Blevins on the minority side for the work that they have done day after day, week after week, month after month, arriving at this point.

I also say publicly that Alex Flint, David Gwaltney, and Lashawnda Leftwich on the majority side, have set an example of how congressional staffs should work together to arrive at a goal that is good for this country.

Madam President, this bill has, as the Senator from New Mexico pointed out, many different items dealing with the sciences. For example, one of the things that I am extremely happy about is that we have provided money for desalinization. Personally I don't think it is nearly enough because I think in the years to come desalinization is going to be the watchword for not only water in this country but all over the world. We need to do much more than what we have done.

Senator Paul Simon, the Senator, just retired, from Illinois, is writing a book on water. I had the good fortune to read the book before it went to the publisher. It is a wonderful book. He points out how important desalinization is. And I acknowledge that and agree with him. There is desalinization in this bill that I think is very important.

We have done things with hydrogen fuel development. We have done things with the other renewable programs—solar; and programs that are going to take the place someday of fossil fuel. It is not enough certainly in this bill, but I am proud of the fact that it is in this legislation.

I would like to also point out another California project called the California Bay-Delta ecosystem restoration project.

I say this because this is one of the first times in the history of this country that parties with dissimilar and often opposing interests have sat down and are working together for an equitable resolution to a significant problem in the State of California dealing with water.

I think this very big project—for which there is a lot of money in this bill to get this started—is going to set the pattern all over the country. Now parties with dissimilar interests have to sit down and work toward a common goal as they have done.

I am very proud of this bill. I think we have done a good job. We have done a good job in making sure that we have not only done the projects that the Senator from New Mexico and I have talked about but also, Madam President, we have done a good job in making sure that our nuclear deterrent is safe and reliable.

When I was in the House of Representatives, I supported a nuclear freeze. I support the Comprehensive Test Ban Treaty. And I do it with so much more anticipation now because of what we have in this bill because we have enough money to provide for stockpile stewardship so that the people who we are going to call upon to certify that our stockpile is safe and reliable can do it.

So, in short, this is a good bill. And I hope that it passes the Senate as it did on the initial go-around unanimously.

Mr. BOND. Madam President, St. Louis, MO, is the location of this country's first nuclear weapons site. Unfortunately, the wastes are in the midst of the St. Louis metropolitan area and are for the most part uncontrolled. The radioactive waste at these sites was generated from the production of nuclear weapons as part of the Federal Government's Manhattan Project and Atomic Energy Commission between 1942 and 1957. Much to my dismay, St. Louis has the distinction of having the largest volume of radioactive waste in the country with over 900,000 cubic yards.

For 15 years we have worked with the Department of Energy to clean up this site. Finally, in just the past 2 weeks, after much frustration and delay, we have come to the point were DOE has begun preliminary cleanup efforts. Given this recent progress, the news of the FUSRAP program's transfer out of DOE has, quite understandably, caused a great deal of distress in the community. While I am by no means questioning the Corps' ability to handle the FUSRAP project, I am concerned that potential delays caused by the transfer will undo much of the recent progress.

With site recommendations already made, feasibility studies concluded, and contracts let, it is important that the Corps honor the preliminary groundwork laid by DOE in order to avoid any further delays. Will the Corps be willing to respect these studies, site plans, and contracts?

Mr. DOMENICI. The committee fully intends that the feasibility studies and the site recommendations prepared by DOE will be accepted and carried out by the Corps of Engineers as appropriate. Furthermore, the Energy and Water Development Conference for fiscal year 1998 contains language requiring the Corps to honor all existing contracts.

Mr. BOND. The local community has been very involved in designing a plan to clean up the site. They are concerned that the administration of the cleanup will be moved away from the St. Louis area to Omaha or Kansas City, reducing their input and influence on the cleanup process. When the Army Corps of Engineers takes over the FUSRAP program, will the St. Louis cleanup be managed out of the St. Louis Corps office?

Mr. DOMENICI. It is the understanding and intent of the committee that the cleanup and restoration of contaminated sites falling within the purview of FUSRAP shall be managed and executed by the nearest Civil Works District of the Corps of Engineers with appropriate assistance from an approved design center for hazardous, toxic, and radioactive waste. Local communities throughout the country have been very involved in designing cleanup plans at FUSRAP sites and this strategy effectively maintains community input on the process.

Mr. BOND. I thank the chairman for his assistance and assurances.

Mr. THOMPSON. Madam President, I intend to support final passage of H.R. 2203, the fiscal year 1998 energy and water development appropriations conference report, because it includes funding for a number of projects important to Tennessee, including the National Spallation Neutron Source in Oak Ridge.

However, I want to express my deep concern about the section of the conference report dealing with the Tennessee Valley Authority [TVA]. The conference report includes $70 million for TVA's nonpower programs in fiscal year 1998, which is $36 million less than TVA received to perform these functions last year. However, the House version of the bill had zeroed out funding for TVA, so I am grateful that the conferees provided most of the Senate-passed level of $86 million for next year.

Unfortunately, the conferees also stipulated that this will be the last year that they will provide funding for TVA to carry out its nonpower activities. They warned that, beginning next year, these nonpower responsibilities will either have to be transferred to some other Federal agency or paid for with revenues from TVA's self-financing power program.

Mr. President, I want to be sure everyone understands what we are talking about when we discuss TVA's nonpower programs. We are talking about flood control and navigation on the Tennessee River, our Nation's fifth-largest river system. We are talking about the operation and maintenance of 14 navigational locks and 54 dams—to which the TVA power system contributes its proportionate share of funding. And we are talking about the management of 480,000 acres of recreational lakes, nearly 11,000 miles of shoreline, and 435,000 acres of public land—including such unique national resources as the Land Between the Lakes National Recreation Area in Tennessee and Kentucky.

During the debate on this legislation, some have claimed that the residents of the seven-State TVA region are receiving an unfair Federal subsidy that no one else in the country receives. Madam President, that is simply not true. In every other region of the country, these types of natural resource and infrastructure management activities are performed by some Federal agency, whether it is the Army Corps of Engineers, the National Park Service, the National Forest Service, or the Bureau of Reclamation. In the southeast region, they have traditionally been carried out by the TVA. But if the TVA does not perform them next year, someone else will have to. There is no question that these are Federal responsibilities.

Perhaps the most disturbing suggestion that has been made in recent weeks is that the TVA power program should pick up the cost of these Federal land and water stewardship responsibilities. That is nothing less than an unfair tax on TVA ratepayers. As I said before, these are Federal responsibilities that are paid for by the Federal Government in every other region of the country. Nowhere else are utility ratepayers expected to assume the costs of these types of Federal responsibilities by paying more for their electricity.

So while I appreciate the fact that the conferees agreed to provide funding for TVA to meet its Federal obligations this year, I am very concerned about what they have proposed for the future. And I want to be clear about one thing: it is not acceptable for Congress to walk away from its Federal responsibilities in one region of the country while continuing to provide for them everywhere else. Over the course of the coming year, I plan to work very hard with my colleagues to come up with a solution that is fair and equitable for the people of the Tennessee Valley.

Mr. DOMENICI. Madam President, we yield back any time we have remaining on the bill.

Mr. REID. I yield back any time the minority has.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. DOMENICI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—99

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kennedy	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kohl	Thompson
Dodd	Kyl	Thurmond
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden

NOT VOTING—1

Leahy

The conference report was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENTS NOS. 1267, 1268, 1269, EN BLOC

The PRESIDING OFFICER. Under the previous order, the Senate will now vote en bloc on amendments Nos. 1267, 1268, 1269, offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCAIN (when his name was called). Present.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Louisiana [Ms. LANDRIEU] are necessarily absent.

I also announce that the Senator from Vermont [Mr. LEAHY] is absent due to a death in the family.

The result was announced, yeas 69, nays 27, as follows:

The result was announced—yeas 69, nays 27, as follows:

{Rollcall Vote No. 263 Leg.}

YEAS—69

Abraham	Ford	McConnell
Akaka	Frist	Mikulski
Baucus	Glenn	Moseley-Braun
Bennett	Graham	Moynihan
Bingaman	Grams	Murkowski
Bond	Gregg	Murray
Breaux	Hagel	Nickles
Brownback	Harkin	Reed
Bumpers	Hatch	Roberts
Byrd	Helms	Rockefeller
Cleland	Hollings	Roth
Coats	Hutchinson	Sarbanes
Conrad	Hutchison	Shelby
Coverdell	Inouye	Smith (OR)
D'Amato	Jeffords	Snowe
Daschle	Johnson	Specter
DeWine	Kennedy	Stevens
Dodd	Kerrey	Thompson
Dorgan	Kerry	Thurmond
Durbin	Lautenberg	Torricelli
Enzi	Lieberman	Warner
Faircloth	Lott	Wellstone
Feinstein	Lugar	Wyden

NAYS—27

Allard	Craig	Kyl
Ashcroft	Domenici	Levin
Boxer	Feingold	Mack
Bryan	Gorton	Reid
Burns	Gramm	Robb
Campbell	Grassley	Santorum
Chafee	Inhofe	Sessions
Cochran	Kempthorne	Smith (NH)
Collins	Kohl	Thomas

ANSWERED ''PRESENT''—1

McCain

NOT VOTING—3

Biden	Landrieu	Leahy

The amendments (Nos. 1267, 1268, 1269), en bloc, were agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 1250

Mr. LOTT. Madam President, I believe the Senator from Oregon would

like to now move to the consideration of his amendment. We have an agreement there will be up to 20 minutes of debate on that amendment and we will engage in a colloquy.

I am glad to yield the floor so the Senator from Oregon can carry this out.

Mr. WYDEN. Madam President, the Wyden-Grassley amendment is before the Senate at this time?

The PRESIDING OFFICER. That is correct.

Mr. WYDEN. Madam President, I will be very brief. I also want to thank the majority leader for his courtesy.

This amendment involves one of the most awesome powers that a Member of the U.S. Senate has. That is the power to effectively block the consideration of a bill or nomination in secret.

Now, it is a power that I think many Americans are concerned about. I have made it very clear that I am not seeking to abolish the right of a Senator to put a hold on a measure or matter. But I do think that if an important health or environmental matter comes before the Senate, as the Kennedy–Kassebaum measure did in the last Congress, involving health care for millions of Americans, that there ought to be public disclosure, that there ought to be sunshine.

The majority leader, in my view, has made a number of constructive proposals in the past with respect to this procedure. I am particularly pleased that he sought in the beginning of this year, January 27, to limit Members from putting holds on blocks of legislation, in effect, blocking a whole package of legislation, from coming before the Senate. But we still have not been able to change the Senate rules to bring some sunshine in, to make sure that the American people can hold each one of us accountable.

There have been reports that when the Senate passes the Wyden-Grassley legislation to have public disclosure of holds in the U.S. Senate, this is just going to die in conference and it will just vanish in the vapor in secret. It is especially ironic that an effort to eliminate secrecy in the exercise of awesome powers of the U.S. Senate, that would somehow take place again in secret, but I am concerned that may happen. In fact, there is a report today in Roll Call, a Capitol Hill publication, that raises concern in my mind.

I briefly would like to engage the majority leader in a colloquy on this point. He and I have been talking about it for about a year and a half now, I think. As I said, I believe the majority leader has made a number of constructive changes already with respect to the hold procedure. I would like to have his thoughts at this time with respect to his views on public disclosure of holds, and specifically whether it will be possible on a bipartisan basis to work out this change and ensure that there is real accountability with the American people for important actions taken by Senators.

I yield to the majority leader.

Mr. LOTT. Madam President, first and foremost, I want to apologize to the Senator from Oregon for not being able to respond last week to his request that we engage in a colloquy regarding his amendment which is pending to the D.C. appropriations bill. He was generous enough to be understanding that we had a number of other issues we were dealing with late last week, including the campaign finance reform issue, as well as a number of other issues that are very pressing at the end of the fiscal year with the appropriations bills. So I am glad he was willing to allow us to do the colloquy now instead of last week. I appreciate his attitude on that.

I think also I should note that he has been talking with me over the past year and 4 months that I have been majority leader about his concerns in this area. I appreciate the fact that you noted, Senator, I have tried to be more open and more communicative with Senators about the procedures around here, trying to open up, trying to make them clearer and more understandable. As a matter of fact, I sent out a long letter clarifying to Members what is the process and what is the proper way to exercise a hold. I did feel that it had sort of evolved into a situation that was not fair and was not intended.

I continue and want to continue working to have a fair system around here and one that everybody understands. I am sure the Senator also has learned to appreciate, as a Senator, the importance and the significance of the hold. It is a unique creature in the Senate and it is one that is used, I think reasonably and responsibly most all of the time, and can serve very positive purposes.

For instance, I believe you noted in your comments that you used it earlier, or last month, with regard to the confirmation of the Chairman of the Joint Chiefs of Staff to get an issue addressed that was important to you. You didn't do it secretly. You were pretty open about your hold. It led to some accommodations that I believe will be helpful to the families there in Oregon and satisfied the Senator.

We want to be careful how we change things around here. When you come over from the House to the Senate you really have a lot of questions about how this place operates: What are the rules? This seems like an archaic way to do things. Then you begin to understand it better, then you begin to think to yourself, no, I don't want the Senate to be the House. You begin to appreciate the traditions and the rules and the procedures around here. You have an opportunity to talk to Senator BYRD, as the Senator from Oregon has, or in my case, to Senator STEVENS or Senator HELMS. If you go to them and say, why is this important? Why has it been done that way? Then you begin to have a whole different view about the institution and the tradition and how things are done.

So, I will continue to move in the direction, I think, that the Senator is seeking. I want a clearer understanding and I like doing things in the daylight, not in the dark of night. I don't like secrecy generally on anything, as a matter of fact. I like sunshine.

But it is a problem for the majority leader and for the Senate to make this kind of change on the D.C. appropriations bill. I think to change the standing orders of the Senate in this way is something that is troublesome to some Senators.

For instance, I have not had an opportunity yet to sit down and talk with the minority leader about this. I had thought that the better place to do this would be at the beginning of a session when we meet, between the two leaders of the two parties, and we have knowledge and input from both sides of the aisle and that you do it at the beginning of a Congress when you have the organization of the Senate. I think that path would have been much preferable or is preferable to this approach.

I assume that the minority leader has some reservations of the use of any Senator to effect the so-called standing orders with an amendment on an appropriations bill.

So I say to my colleague, then, that I understand what he is trying to do and I am not unsympathetic to that, but I do have problems with doing it in this way on an appropriations bill.

I will continue to listen to all Senators. I will sit down. This has caused me to find a time—and I am not complaining—to sit down and make sure that senior Senators understand what we might be thinking of doing. Are there problems with it? I don't know that there will be. I really think that any Senator who feels strongly enough about an issue to put a hold on it ought to be prepared to come to the floor and explain it. I have indicated to Senators on both sides of the aisle, sometimes when holds have been placed and have not been removed in a reasonable period of time that they better be prepared to come to the floor and object and debate because I was prepared to call up the issue.

However, I also feel a real appreciation for the way the Senate is considerate of every single Senator—if she or he has a problem, I like to give them time to work through it, whether they are Republican or Democrat, regardless of philosophy, religion, or anything else. Sometimes there may be a good reason why they would not want, in a specified period of time, 2 days, for instance, to explain all of what is going on.

I guess that is a long explanation to the Senator's comments and questions, but I understand what he is trying to do. I hope we can find a way to continue to work on it and come to a conclusion that would benefit the Senate as a whole.

Mr. WYDEN. If the majority leader can spend another minute—these are thoughtful points that you raise, and I

appreciate the courtesy—the reason for acting now is this is the season when senior Members say that the abuses are greatest. At the end of a session when there is a rush to complete the business is when this practice which, as the majority leader points out, is a long tradition, that is when this practice is abused. I think the majority leader makes a very good point with respect to the need for courtesy and respect for traditions.

I see our friend, Senator GRASSLEY, is here. This is a bipartisan amendment. We share the majority leader's view with respect to this tradition. We are not seeking to eliminate the hold, seeking to eliminate the filibuster, seeking the right of Senators to work matters out. What we are concerned about is secrecy. At a time when the American people are so skeptical about our Government, when they go to hearings and day after day look at practices that they question, when they look at the U.S. Senate and see these procedures that are secret, it smacks of a backroom deal.

I think the majority leader is right, the Senate is a good institution. It is not going to suffer if a bit of sunlight comes in. This is an institution strong enough to have a bit of sunlight and to have Members held accountable. I don't want to disrupt the tradition of the Senate, but if an important health or environmental measure or other important issue is held up for months on end because a Senator genuinely objects, then it is not just a matter of courtesy, it is a matter of being accountable to the American people.

I will interpret the majority leader's response to this colloquy as willing to work with the Wyden-Grassley effort, and I appreciate the fact that it is going to pass today. I know the majority leader has other matters that he has to attend to. I want to thank him for his colloquy and look forward to working with him.

I yield the time now to the Senator from Iowa, Senator GRASSLEY.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, what we are proposing in the Wyden-Grassley amendment is not going to hurt anybody. Senator WYDEN and I experimented with this so the other 98 Members of the Senate would not have to be hurt if it didn't work. Well over a year ago, we voluntarily, on our own, without any instigation from the rules or anything or anybody else, we publicly stated that we were going to follow the practice of our amendment, even though we didn't have to, and when we put a hold on a bill or a nomination, we would put it in the CONGRESSIONAL RECORD. We did that. I can speak for myself and say that there are no bruises, there is no harm, there is no retaliation. Nothing happened as a result of the whole world knowing why Senator GRASSLEY or Senator WYDEN were holding up a particular action.

I think that ought to tell everybody else that they can likewise do whatever they need to do in the Senate to adequately represent the interests of their constituents through the use of a hold and freely tell everybody, and the end result can still be accomplished without anybody being hurt as a result of it. I hope that we will now institutionalize what I have found to be a very effective way of doing the job of U.S. Senator and, yet, at the same time, being open and aboveboard about it.

This amendment requires simply disclosure by Senators of the holds that they place on legislation. As we all know, the current Senate practice allows Senators to block consideration of any measure without disclosing their actions just by notifying Senate leaders of their objection. Our amendment does not stop this practice. Rather, we seek to put an end to the secrecy surrounding the practice. If any Senator objects to legislation, that Senator should have the courage and conviction to express openly the reasons for opposition. It is critical to preserve the right of every Senator to represent the views of his constituents, but we cannot fully earn the trust of our constituents if we do not shed the brightest possible light on what we do here in the people's assembly.

It is important for the Senators to remember that their right to place holds on initiatives about which they have objection, then, is very much preserved in the tradition of the Senate, but everything is out in the open. The only thing untraditional about it is, if you want to hold up legislation, you should state your reason in the RECORD and let people know. All we are requiring is that Senators make their objections known in one of two ways—either stating their objections on the floor, or publishing their objections in the CONGRESSIONAL RECORD within 48 hours of placing such a hold.

It is a simple amendment that sends a very powerful message that the U.S. Senate is willing to operate in an open manner, according to the principles of representative democracy. I believe this amendment can only increase our constituents' belief that we are willing to be open and honest about the legislative process and what our legislative agenda is. It should help reduce some of the cynicism toward the processes of representative Government here at the Federal level.

I thank Senator WYDEN for his work on this amendment and the majority leader for accommodating this issue. It will go to conference. I would expect comity between the House and Senate because this is just a Senate issue, and that there will not be any objection on the part of the House because of comity. In the case of the Senate, since this is being adopted by the Senate, I would expect that our Senate conferees would uphold the amendment and it would become a part of the traditional process.

I urge my colleagues to continue to work toward reform that makes Congress more open and straightforward in how we do the people's business. I thank you for your consideration.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for an additional 10 minutes.

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

Mr. WYDEN. Thank you. Mr. President, I want to especially thank my colleague, Senator GRASSLEY, for a fine statement and for all his help. He has long been recognized as one of the most honest, up-front Members of the U.S. Senate. I want to tell him that it is a special pleasure to be able to work with him.

Mr. President, certainly, if you walk down the main streets of this country and ask our citizens what a hold is in the U.S. Senate, you are certainly not going to find many Americans who are familiar with this practice. But the fact of the matter is, this is an awesome, awesome power exercised by a Member of the U.S. Senate. The power to put a hold on a bill or a nomination is the power to singlehandedly, effectively block the consideration of a bill or nomination from coming to the floor of the U.S. Senate.

All Senator GRASSLEY and I are asking tonight is that when a Member of the U.S. Senate exercises this extraordinary power, that it be publicly disclosed. All we are asking is for an end to the secrecy.

My constituents look at the U.S. Senate sometimes and raise questions about how business is done here and, frankly, have some suspicions about the way the Senate conducts business. Sometimes I think they suspect that the procedures around here are a little bit like an elegant game of three-card monte. Now, my own hope is that with the passage of this amendment tonight in the U.S. Senate, and by making public the exercise of this extraordinary power by a U.S. Senator, our citizens will feel a bit more confidence and a bit more likely to see the Senate as an institution that is open and accountable.

The majority leader, Senator LOTT, is absolutely right about the traditions of the Senate and, particularly, making accommodations to work out issues wherever possible. All we are saying is that when a Member of the U.S. Senate digs in with all his or her strength to block a bill or a nomination, the American people deserve to know the name of that Senator. This effort does not eliminate holds, it doesn't eliminate the filibuster; it eliminates none of the traditions that the majority leader referred to. All it does is say that a Senator is going to be straight with the American people when they exercise their enormous power to effectively block the consideration of a bill or a nomination on the use of the hold procedure.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 1250) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

SURFACE TRANSPORTATION REAUTHORIZATION

Mr. FAITHCLOTH. Mr. President, I want to say a few words about the surface transportation reauthorization debate. North Carolina is the number one donor State. We received just 82 cents on the dollar for our gas tax contributions to the Highway Trust Fund under the 1991 ISTEA. In fact, over the 40 year life of the federal highway aid program, we have received just 87 cents for every dollar that we sent to Washington. There is no State that received a lesser rate of return on its gas taxes than North Carolina.

Mr. President, like other Donor State Senators, I will not support a reauthorization bill that fails to offer the Donor States some basic fairness. The Donor States accepted this role—and accepted it graciously—for forty years. The Chafee-Warner-Baucus bill is a step in the right direction. However, there is much work to be done. I served on the North Carolina Highway Commission and chaired it for four years. We understood the national importance of the interstate system. We were not happy about our Donor State status, Mr. President, but we accepted it. We understood that the interstate system was a national priority. However, the interstate system is now almost complete, and the rationale for Donor and Donee States is gone.

The Donor States are not asking for extra dollars. We're not asking to be made whole for past subsidies to the Donee States. We just want an equitable rate of return on our gas taxes. Just a fair return after forty years of our subsidies to other States. I believe that there is a real role for the federal government in transportation. But it must be a fair one. Make no mistake about it, now that the rationale for Donor and Donee States is gone, their argument is just plain old-fashioned politics.

Let me illustrate the absurd results of this long-term imbalance. One of the last additions to the 1991 ISTEA was a 3 billion dollar pot of money to reimburse States for the costs of roads built before the start of the Interstate system in 1956. This so-called ''equity category'' benefitted, for the most part, northeastern Donee States. These are the same States that enjoyed a huge windfall from the federal highway aid program during the Interstate construction era. Mr. President, these roads are more than 40 years old, and the construction bonds were paid off long ago. The toll booths are still up, though, collecting millions of dollars. These States received 3 billion dollars in ISTEA—for 40-year-old roads—but, apparently, that wasn't enough for them.

The Clinton Administration proposed in its NEXTEA that the American taxpayers continue to funnel their hard-earned tax dollars to these States. In the NEXTEA proposal—its plan for the first post-Interstate highway bill—the White House proposes not only to retain this program, but to increase it to 6 billion dollars.

These must have been pretty expensive roads. After all, Mr. President, they have been paid for several times. First, the drivers paid tolls to pay off the construction bonds, and these roads were all paid off more than a decade ago. After the bonds were paid off, though, the States kept collecting tolls. Then the federal government sent 3 billion dollars to pay for the roads again. And the States kept collecting the tolls.

Now they want 6 billion dollars to pay for the roads another time. And they will still keep collecting the tolls. North Carolina drivers lose 20 cents off every gas tax dollar to the Donee States. The Southern States are growing fast and have major transportation needs. But, not only can't North Carolina drivers get a dollar for dollar return, we are supposed to pay again and again for these 40-year-old roads. It seems just absurd to squander money like this. It is especially absurd since there is such a limited pool of transportation funds.

In fact, Mr. President, the transportation budget is so squeezed that we hear all this talk about new ''user fees'' for transportation. These are just new taxes, of course, just a euphemism for new ways to take money from the taxpayers. The American people are already overtaxed. These proposals to raise taxes just defy common sense. I find it interesting, however, that I don't hear much discussion about one of the most obvious ways to increase the value of our transportation dollars. It will not cost the taxpayers a dime and will boost the value of some transportation dollars by 15 percent.

The taxpayers' friends know that I am talking about repeal of the Davis-Bacon Act. I am talking about a Congress that favors the taxpayers over the union bosses. These Davis-Bacon requirements, especially the ''union work practices'' provision, drive up construction costs because they promote inefficiency in many forms. Davis-Bacon is a needless surcharge, just a contribution to union bosses, on these construction projects. The Davis-Bacon Act drives up construction costs by an average of 15 percent. The Congressional Budget Office confirms that repeal of Davis-Bacon will save the taxpayers billions of dollars.

Incredibly, the White House proposed to expand Davis-Bacon in its transportation bill. It is no secret, though, that Davis-Bacon repeal is essential if we are serious about squeezing every penny out of the federal highway program. It is far better for the taxpayers to root out these inefficiencies than to raise the taxes of the American people. I know that some people find it hard to imagine that there are alternatives to new taxes in order to increase the transportation budget. This Senate voted this year for billions of dollars for a mission in Bosnia, which was supposed to be over last year, and for hundreds of millions of dollars in new welfare spending.

It is time to cut the waste—not raise taxes—to fund our transportation priorities. This is the first authorization bill in the post-Interstate era. It is also the first authorization bill subject to the constraints of a balanced budget plan. This bill brings new challenges. And, Mr. President, new obligations. This bill must be fair to the States that subsidized the Interstate system for 40 years. We need to get the most for each and every dollar in the transportation budget. We certainly cannot afford to squander taxpayer dollars on outdated rules in order to prop up the power of the labor unions.

It's time to tell the union bosses that the good times are over! This is not their transportation bill! North Carolina needs a transportation bill that builds highways, not government bureaucracies. A transportation bill that works for the taxpayers, not the labor bosses. Mr. President, if this bill is not fair to North Carolina taxpayers, I will be forced to filibuster it.

VISIT OF DAVID TRIMBLE OF THE NORTHERN IRELAND ULSTER UNIONIST PARTY

Mr. KENNEDY. Mr. President, next week David Trimble, leader of the Ulster Unionist Party in Northern Ireland, will begin a visit to the United States where he will meet with many of us on both sides of the aisle in Congress who are deeply committed to helping achieve a lasting peace in Northern Ireland. There is perhaps no one better placed to make that happen than Mr. Trimble, who leads Northern Ireland's largest party.

Mr. Trimble is to be commended for bringing his party into the current talks, which now include Sinn Fein as a result of the restoration of the IRA cease-fire in July. Those talks are ably

chaired by our former Senate colleague, George Mitchell.

Mr. Trimble and his party faced many difficulties in deciding to participate in talks which include Sinn Fein. There is a long history of distrust by both sides in Northern Ireland, and the fears and concerns of unionists cannot be dismissed. Mr. Trimble spent the month of August consulting with many people and concluded that his constituents want his party to participate in the talks as the best hope for achieving a peaceful settlement.

Huge challenges lie ahead. Negotiating a solution which can obtain the support of both communities is a formidable task. But at long last, the principal parties are at the negotiating table and real dialogue is beginning. David Trimble deserves a significant share of the credit for this long-sought progess. I look forward to his visit to this country, and I ask unanimous consent that an excellent article in the September 29 issue of Time Magazine be printed in the RECORD.

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

[From Time, Sept. 29, 1997]

FACE TO FACE

(By Barry Hillenbrand)

It was no surprise last week when, just as historic talks began to try to dissolve the annealed hate that divides Northern Ireland, a 400-lb. bomb exploded in a largely Protestant town near Belfast. The hard men for whom terrorism has become a way of life were again trying to blow away the chance for peace. Nor was it a surprise that the Protestant politicians, who fear any change in their domination of the province, denounced the bombing as a Roman Catholic republican plot that made the talks impossible.

But it was a surprise when, one day after the explosion, the talks began anyway, bringing together for the first time the leaders of Sinn Fein, the political wing of the Irish Republican Army, which has waged war to drive the British off the island of Ireland, and the main leaders of their bitter Protestant Unionist opponents. That the talks began at all was a triumph of patience, persistence and cleverness by the governments of Ireland, Britain and the U.S., which are shepherding the broader peace process.

It was also a measure of how much has changed in Northern Ireland over the past half dozen years. Most important, the 1.6 million people of the province, Protestant and Catholic alike, have come to hate the war of hate and are demanding peace. Second, the terrorists have come to believe they can win more from talking than from killing. And finally, the huge parliamentary majority rolled up by Tony Blair and the Labour Party has stripped the recalcitrant Unionists of their veto over the efforts of the British government to change the status of its troubled province.

In the past the Unionists have been able simply to stonewall the peace process. But last week, there at the head of the Unionist delegation was David Trimble, a hot-tempered, frequently red-faced law lecturer who heads Northern Ireland's largest and most important Protestant party, the Ulster Unionist Party (U.U.P.).

For years Trimble, like many other Unionists, refused to sit down in the same room with Sinn Fein repesentatives. Once Trimble stormed out of a TV interview in the midst of a live broadcast because he was about to be electronically linked with a Sinn Fein member in another studio. But in August the British government declared that a new I.R.A. cease-fire was genuine and that Sinn Fein was thus qualified to join the political talks jointly sponsored by London and Dublin under the chairmanship of former U.S. Senator George Mitchell. Suddenly, Sept. 15, the date set for the start of a new round of talks, became the moment of truth for Trimble, Sinn Fein would join the talks, but would Trimble take his party in?

If Trimble's temperament and political background were any guide, the answer would clearly have been no. As a young lecturer in law at Queen's University in Belfast in the late '60s, Trimble joined a fringe political group Vanguard, that condemned the U.U.P., the party Trimble was later to head, for being insufficiently hard line. He flirted with other extremist groups before finally coming to terms with the U.U.P. and being elected to Parliament as one of its candidates in 1990. His rise to the top of the party was swift. He won the leadership slot in 1995, largely on the strength of the militant image he had acquired by marching at the head of a triumphalist Protestant parade that bullied its way through a besieged Catholic neighborhood. ''We were in despair when he was elected,'' says a moderate in Trimble's party. ''We thought all hope for peace and accommodation was gone.''

But Trimble has changed. Once he became leader of the party, there was a concerted effort by Britain and the U.S. to erode his narrow provincialism by getting him to travel outside Ulster, a process that had worked well with Gerry Adams, the leader of Sinn Fein. For a man who once bragged he had never set foot outside the U.K., it was a heady experience. Trimble visited the U.S., long shunned by Unionists as the bastion of fervent I.R.A. support. He had coffee with President Bill Clinton and chatted with the sort of Congressmen he once considered the enemies of Unionism. Now Trimble's office hands out copies of the *Congressional Record* featuring a speech paying tribute to the Irish Protestant tradition in America. Its author: *Ted Kennedy*, the Irish republican's greatest champion in Congress. Trimble also traveled to South Africa with delegations of other parties from Northern Ireland for a conference on Conflict resolution.

Trimble is still a staunch Unionist and profoundly leery of Sinn Fein. Before walking into the talks last week, he defiantly said he had come not to ''negotiate with Sinn Fein but to confront them and to expose their facist character.'' ''Yet,'' says David Ervine, a senior official of the Progressive Unionist Party, who marched into talks with Trimble last week, ''Trimble has come further than any Unionist leader in history.'' He has broken out of the siege mentality, which for years had Unionist leaders hiding behind banners proclaiming no surrender and refusing to consider any accommodation with the Catholic minority or with the Irish Republic to the south. ''We are certainly going to address the views of those who consider themselves Irish and don't want to be part of the United Kingdom,'' says Trimble. ''We have to respect their cultural identity and protect their civil rights. We are comfortable with that.'' But, of course, Trimble holds fast to the basic principle of Unionism: that Northern Ireland should remain part of the U.K.

Despite his firm belief that the I.R.A. cease-fire is a sham, Trimble recognized that the moral burden of continuing the peace process has fallen on him. ''We could have stayed back and waited for the talks to collapse without us,'' says Trimble. But then we would have been accused of blocking peace.''

Trimble also knew that the popular political mood in Northern Ireland was running strongly in favor of all-inclusive peace talks. The failure of the I.R.A. cease-fire which collapsed in February 1996, had profoundly depressed people. This summer sectarian tension once again ran high, and Northern Ireland teetered on the edge of what one of the senior members of Mitchell's team warned could have been ''full-scale civil war.'' The I.R.A. cease-fire announced in July and the promise of peace talks in September again raised hopes. Says Christopher McGimpsey, a U.U.P. city councilor from Belfast: ''We were hearing from the grass roots that we should enter talks.''

Trimble also received a powerful shove through the negotiating gates from Blair. First, Blair warned Sinn Fein that if it wanted to have a say in the future of Northern Ireland, it would have to secure a cease-fire from the I.R.A. and agree to respect democratic principles. When it did just that, Blair turned his attention to Trimble's Unionists. ''Some Unionists failed to understand that if we do not join the talks, London and Dublin could impose a political solution on us,'' says John Taylor, the deputy leader of Trimble's party. With that possibility staring him in the face, Trimble could hardly have said no to the talks.

Even after last week's bombing, Trimble arrived for the talks. ''Two years ago,'' said Marjorie (''Mo'') Mowlam, the tough-talking, no-nonsense British Secretary of State for Northern Ireland, ''it would not have been possible for Trimble to move forward after a bomb like that. Now Unionism wants its leaders to be talking.'' And in the North, that is surprising progress.

HONORING THE WOODALLS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Elsa and James Woodall IV of Springfield, MO, who on October 18, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Woodalls' commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO DONALD J. BABB

Mr. ASHCROFT. Mr. President, I rise today to acknowledge and honor the achievement of Mr. Donald J. Babb of my home State of Missouri. Mr. Babb recently received the Shirley Anne Munroe Leadership Development Award from the American Hospital Association and the Hospital Research and Education Trust. Mr. Babb is the chief executive officer of the Citizens

Memorial Hospital and the executive director of Citizens Memorial Health Care Foundation in Bolivar, MO. The national award recognizes leaders in executive management positions in small or rural hospitals who have improved health care delivery to rural areas through innovative and progressive steps.

Donald has been an instrumental part of the Citizens Memorial Hospital since before its opening in 1982. Under his leadership, the hospital was recognized as one of the ''Top Ten Small Rural Hospitals'' in the Nation, as determined by the American Hospital Association, and has become a fully integrated health care delivery system. Mr. Babb stated that, ''Meeting the needs of the communities we serve has been my No. 1 priority. We have expanded services so that patients have access to quality care for every stage of their lives.'' His dedication to the good health of the people in rural southwest Missouri is obvious through his efforts directed toward improving the quality of health care available in this area.

For the past 17 years, Mr. Babb has dedicated his life to the betterment of his community and the people he serves. His work embodies the spirit of the American dream. Mr. President, I ask that Members of the Senate join me in recognizing and honoring the work and lifetime achievements of Mr. Donald J. Babb.

SOUTHSIDE SAVANNAH RAIDERS

Mr. COVERDELL. Mr. President, the Southside Savannah Raiders baseball team of Savannah, GA deserves recognition for its extraordinary talent and teamwork for its winning the State championship of the 1996 Division A Georgia Recreation and Parks' Twelve and Under Youth Division. The Raiders achieved an impressive record of 53 wins and 3 losses for the year, and secured the League, City, District 2, and Georgia Games titles, as well as second place in the AAU State Tourney, on their way to the championship.

The All Stars included Joey Boaen, Christopher Burnsed, Brian Crider, Bryan Donahue, Matthew Dotson, Kevin Finnegan, Kevin Edge, Mark Hamilton, Garett Harvey, Bobby Keal, Adam Kitchen, and Daniel Willard. Linn Burnsed, Danny Boaen, and Dana Edge ably coached these young players and instilled in them a winning attitude and a sense of sportsmanship. The team's success can be attributed to the dedication of all of the team members, as well as the parents and countless friends who lent their support.

Mr. President, I appreciate the chance to acknowledge the Southside Savannah Raiders' successes, and commend the ability and dedication of these champions.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 29, 1997, the federal debt stood at $5,388,315,809,652.79. (Five trillion, three hundred eighty-eight billion, three hundred fifteen million, eight hundred nine thousand, six hundred fifty-two dollars and seventy-nine cents)

Five years ago, September 29, 1992, the federal debt stood at $4,045,289,000,000. (Four trillion, forty-five billion, two hundred eighty-nine million)

Ten years ago, September 29, 1987, the federal debt stood at $2,340,446,000,000. (Two trillion, three hundred forty billion, four hundred forty-six million)

Fifteen years ago, September 29, 1982, the federal debt stood at $1,118,989,000,000. (One trillion, one hundred eighteen billion, nine hundred eighty-nine million)

Twenty-five years ago, September 29, 1972, the federal debt stood at $433,946,000,000 (Four hundred thirty-three billion, nine hundred forty-six million) which reflects a debt increase of nearly $5 trillion—$4,954,369,809,652.79 (Four trillion, nine hundred fifty-four billion, three hundred sixty-nine million, eight hundred nine thousand, six hundred fifty-two dollars and seventy-nine cents) during the past 25 years.

REPORT OF THE NOTICE OF THE CONTINUATION OF THE IRAN EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1997, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on October 31, 1996. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency and that are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1997.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:03 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 871. An act to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.

H.R. 1420. An act to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purpose.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 11:10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

The message also announced that the House has passed the following bill, without amendment:

S. 1211. An act to provide permanent authority for the administration of au pair programs.

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1116. An act to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.

H.R. 2487. An act to improve the effectiveness and efficiency of the child support enforcement program and thereby increase the financial stability of single parent families including those attempting to leave welfare.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one

of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1211. An act to provide permanent authority for the administration of au pair programs.

H.J. Res. 94. Joint resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

At 5:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2378) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES REFERRED

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

H.R. 1116. An act to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clinton Independent School District and the Fabens Independent School District; to the Committee on Foreign Relations.

H.R. 2487. An act to improve the effectiveness and efficiency of the child support enforcement program and thereby increase the financial stability of single parent families including those attempting to leave welfare; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on September 30, 1997 he had presented to the President of the United States, the following enrolled bills:

S. 871. An act to establish in the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes.

S. 1211. An act to provide permanent authority for the administration of au pair programs.

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–3060. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on August 25, 1997; to the Committee on Environment and Public Works.

EC–3061. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on August 26, 1997; to the Committee on Environment and Public Works.

EC–3062. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, seven rules received on August 27, 1997; to the Committee on Environment and Public Works.

EC–3063. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 15, 1997; to the Committee on Environment and Public Works.

EC–3064. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on September 16, 1997; to the Committee on Environment and Public Works.

EC–3065. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules received on September 5, 1997; to the Committee on Environment and Public Works.

EC–3066. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, six rules received on September 10, 1997; to the Committee on Environment and Public Works.

EC–3067. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 15, 1997; to the Committee on Environment and Public Works.

EC–3068. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, four rules received on September 17, 1997; to the Committee on Environment and Public Works.

EC–3069. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules received on September 18, 1997; to the Committee on Environment and Public Works.

EC–3070. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 22, 1997; to the Committee on Environment and Public Works.

EC–3071. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules received on September 23, 1997; to the Committee on Environment and Public Works.

EC–3072. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on September 26, 1997; to the Committee on Environment and Public Works.

EC–3073. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 26, 1997; to the Committee on Environment and Public Works.

EC–3074. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''Migratory Bird Hunting'' (RIN1018-AE14) received on September 29, 1997; to the Committee on Environment and Public Works.

EC–3075. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''Migratory Bird Hunting'' (RIN1018-AE14) received on August 25, 1997; to the Committee on Environment and Public Works.

EC–3076. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 21, 1997; to the Committee on Environment and Public Works.

EC–3077. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 22, 1997; to the Committee on Environment and Public Works.

EC–3078. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on August 29, 1997; to the Committee on Environment and Public Works.

EC–3079. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 5, 1997; to the Committee on Environment and Public Works.

EC–3080. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 12, 1997; to the Committee on Environment and Public Works.

EC–3081. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule received on September 29, 1997; to the Committee on Environment and Public Works.

EC–3082. A communication from the Acting Chief Financial Officer of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the Agency's Strategic Plan; to the Committee on Environment and Public Works.

EC–3083. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled ''1997-98 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018-AE18) received on September 4, 1997; to the Committee on Environment and Public Works.

EC–3084. A communication from the Director of the State and Site Identification Center, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 25, 1997; to the Committee on Environment and Public Works.

EC–3085. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, a draft of proposed legislation entitled ''The Atomic Energy Act Amendments of 1997''; to the Committee on Environment and Public Works.

EC–3086. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule received on August 28, 1997; to the Committee on Environment and Public Works.

EC–3087. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, informational copies of a Building Project Survey for the Baltimore, Maryland, metropolitan area; to the Committee on Environment and Public Works.

EC–3088. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Columbia River Treaty Fishing Access Sites; to the Committee on Environment and Public Works.

EC–3089. A communication from the Executive Secretary of the Inland Waterways

Users Board, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Environment and Public Works.

EC–3090. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the St. Paul Island Harbor, Alaska; to the Committee on Environment and Public Works.

EC–3091. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a deep-draft navigation project at Chignik Harbor, Alaska; to the Committee on Environment and Public Works.

EC–3092. A communication from the Acting Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96-03; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998'' (Rept. No. 105–91).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 750. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes (Rept. No. 105–92).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1158. A bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes (Rept. No. 105–93).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amended preamble:

H. Con. Res. 8. A concurrent resolution expressing the sense of Congress with respect to the significance of maintaining the health and stability of coral reef ecosystems (Rept. No. 105–94).

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 126. An original resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs.

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. ENZI (for himself, Mr. GREGG, Mr. FRIST, Mr. JEFFORDS, Mr. COATS, Mr. DEWINE, Mr. HUTCHINSON, Mr. BURNS, Mr. HAGEL, Ms. COLLINS, Mr. MCCONNELL, Mr. WARNER, Mr. ALLARD, Mr. CRAIG, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, Mr. SMITH of Oregon, Mr. BROWNBACK, and Mr. NICKLES):

S. 1237. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SMITH of Oregon:

S. 1238. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18 and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM:

S. 1239. A bill to suspend temporarily the duty on ethofumesate; to the Committee on Finance.

S. 1240. A bill to suspend temporarily the duty on phenmedipham; to the Committee on Finance.

S. 1241. A bill to suspend temporarily the duty on desmedipham; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. GREGG, Mr. FRIST, Mr. JEFFORDS, Mr. COATS, Mr. DEWINE, Mr. HUTCHINSON, Mr. BURNS, Mr. HAGEL, Ms. COLLINS, Mr. MCCONNELL, Mr. WARNER, Mr. ALLARD, Mr. CRAIG, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, Mr. SMITH of Oregon, Mr. BROWNBACK, and Mr. NICKLES):

S. 1237. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

THE SAFETY ADVANCEMENT FOR EMPLOYEES ACT

Mr. ENZI. Mr. President, I rise today to introduce the Safety Advancement for Employees Act of 1997. I send the bill to the desk.

Mr. President, I ask that further reading of the bill be dispensed with.

Mr. President, during this first Session of the 105th Congress, my esteemed colleague from New Hampshire, Senator GREGG, and I, each introduced a bill related to workplace safety and health. On July 10, a comprehensive OSHA oversight hearing was held by Chairman FRIST in the Subcommittee on Public Health and Safety. This hearing specifically focused on OSHA modernization legislation pending before the committee. The results of this hearing further confirmed the commitment Senator GREGG and I share concerning the safety and health of our Nation's workforce.

It is with great pleasure that Senator GREGG and I, introduce this consensus legislation. The SAFE Act has the support of Subcommittee Chairman FRIST, as well as Labor Committee Chairman JEFFORDS. Both are proud to be original cosponsors and I am sincerely grateful to them for all their hard work. They have clearly helped pave the way for this important measure. In addition, my House colleague and chairman of the Small Business Committee, JIM TALENT, will introduce similar legislation in the House today. This legislation has received strong bipartisan support—an essential ingredient in the recipe for success.

It is important to understand that both the Senate and House versions do not attempt to reinvent OSHA's wheel, just change its tires. Treading water for 27 years, OSHA has never seriously attempted to encourage employers and employees in their efforts to create safe and healthful workplaces. Instead, OSHA chose to operate according to a command and control mentality. This approach has lead to burdensome and often incomprehensible regulations which may not relate to worker safety and health and are, quite often, only sporadically enforced. Even the AFL-CIO has acknowledged that with only 2,451 State and Federal inspectors regulating 6.2 million American worksites, an employer can expect to see an inspector once every 167 years.

While changing OSHA's bald tires, it is important to point out that the SAFE Act does not dismantle OSHA's enforcement capabilities. That approach has been tried time and time again. But, enforcement alone cannot ensure the safety of our Nation's workplaces and the health of our working population. America would be better served by an OSHA that places a greater emphasis on promoting employers and employees working together and this bill would strike that balance.

The SAFE Act is geared to provide employers who seek a safe and healthful workplace for their employees with the ability to obtain compliance evaluations from qualified, third party consultants. In addition, the SAFE Act includes additional voluntary and technical compliance initiatives to assist employers in deeming their worksites safe for their employees. Businesses and employees need clarification on a whole host of issues. They need progress, now. We need good commonsense legislation that advances safety and health of the American workplace, now.

Senator GREGG and I are not interested in making another political statement. It is time for us to tuck the political statements into our coat pockets and pass good common sense legislation that advances the safety and health of the American workplace. Advancing safety and health in the American workplace is a matter of great importance and it must be considered in a serious and rational manner by Congress, by the Occupational Safety and Health Administration, by employers, and yes, by employees too.

Mr. President, I firmly believe that the SAFE Act represents a clean start to addressing the problems that affect OSHA and its dealings with employers and employees. Senator GREGG and I, are quite eager to continue working with my Senate and House colleagues on this important matter. By working together in a bipartisan fashion, we can ensure our Nation's work force that Congress does care about their

personal safety and health. I welcome your support in doing just that.

I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1237

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Safety Advancement for Employees Act of 1997'' or the ''SAFE Act''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. PURPOSE.

Section 2(b) (29 U.S.C. 651(b)) is amended—

(1) in paragraph (13), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(14) by increasing the joint cooperation of employers, employees, and the Secretary of Labor in the effort to ensure safe and healthful working conditions for employees.''.

SEC. 3. EMPLOYEE AND EMPLOYER PARTICIPATION PROGRAMS.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

''(c)(1) In order to further carry out the purpose of this Act to encourage employers and employees in their efforts to reduce occupational safety and health hazards, employers may establish employer and employee participation programs which exist for the sole purpose of addressing safe and healthful working conditions.

''(2) An entity created under a program described in paragraph (1) shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a).

''(3) Nothing in this subsection shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.''.

SEC. 4. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following:

''(d)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall establish an advisory committee (pursuant to the Federal Advisory Committee Act (5 U.S.C. App)) to carry out the duties described in paragraph (3).

''(2) The advisory committee shall be composed of—

''(A) 3 members who are employees;

''(B) 3 members who are employers;

''(C) 2 members who are members of the general public; and

''(D) 1 member who is a State official from a State plan State.

Each member of the advisory committee shall have expertise in workplace safety and health as demonstrated by the educational background of the member.

''(3) The advisory committee shall advise and make recommendations to the Secretary with respect to the establishment and implementation of a consultation services program under section 8A.''.

SEC. 5. THIRD PARTY CONSULTATION SERVICES PROGRAM.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. THIRD PARTY CONSULTATION SERVICES PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall establish and implement, by regulation, a program that qualifies individuals to provide consultation services to employers to assist employers in the identification and correction of safety and health hazards in the workplaces of employers.

''(2) ELIGIBILITY.—Each of the following individuals shall be eligible to be qualified under the program:

''(A) An individual licensed by a State authority as a physician, industrial hygienist, professional engineer, safety engineer, safety professional, or occupational nurse.

''(B) An individual who has been employed as an inspector for a State plan State or as a Federal occupational safety and health inspector for not less than a 5-year period.

''(C) An individual qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary.

''(D) Other individuals determined to be qualified by the Secretary.

''(3) GEOGRAPHICAL SCOPE OF CONSULTATION SERVICES.—An individual qualified under the program may provide consultation services in any State.

''(b) SAFETY AND HEALTH REGISTRY.—The Secretary shall develop and maintain a registry that includes all individuals that are qualified under the program to provide the consultation services described in subsection (a) and shall publish and make such registry readily available to the general public.

''(c) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—The Secretary may revoke the status of an individual qualified under subsection (a) if the Secretary determines that the individual—

''(A) has failed to meet the requirements of the program; or

''(B) has committed malfeasance, gross negligence, or fraud in connection with any consultation services provided by the qualified individual.

''(d) CONSULTATION SERVICES.—

''(1) SCOPE OF CONSULTATION SERVICES.—

''(A) IN GENERAL.—The consultation services described in subsection (a), and provided by an individual qualified under the program, shall include an evaluation of the workplace of an employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated pursuant to this Act.

''(B) NON-FIXED WORK SITES.—With respect to the employees of an employer who do not work at a fixed site, the consultation services described in subsection (a), and provided by an individual qualified under the program, shall include an evaluation of the safety and health program of the employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated under this Act.

''(2) CONSULTATION REPORT.—Not later than 10 business days after an individual qualified under the program provides the consultation services described in subsection (a) to an employer, the individual shall prepare and submit a written report to the employer that includes an identification of any violations of this Act and requirements with respect to corrective measures the employer needs to carry out in order for the workplace of the employer to be in compliance with the requirements of this Act.

''(3) REINSPECTION.—Not later than 30 days after an individual qualified under the program submits a report to an employer under paragraph (2), or on a date agreed on by the individual and the employer, the individual shall reinspect the workplace of the employer to verify that any occupational safety or health violations identified in the report have been corrected and the workplace of the employer is in compliance with this Act. If, after such reinspection, the individual determines that the workplace is in compliance with the requirements of this Act, the individual shall provide the employer a declaration of compliance.

''(4) GUIDELINES.—The Secretary, in consultation with an advisory committee established in section 7(d), shall develop model guidelines for use in evaluating a workplace under paragraph (1).

''(e) ACCESS TO RECORDS.—Any records relating to consultation services (as described in subsection (a)) provided by an individual qualified under the program, or records, reports, or other information prepared in connection with safety and health inspections, audits, or reviews conducted by or for an employer and not required under this Act, shall not be admissible in a court of law or administrative proceeding against the employer except that such records may be used as evidence for purposes of a disciplinary action under subsection (c).

''(f) EXEMPTION.—

''(1) IN GENERAL.—If an employer enters into a contract with an individual qualified under the program, to provide consultation services described in subsection (a), and receives a declaration of compliance under subsection (d)(3), the employer shall be exempt from the assessment of any civil penalty under section 17 for a period of 2 years after the date the employer receives the declaration.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply—

''(A) if the employer involved has not made a good faith effort to remain in compliance as required under the declaration of compliance; or

''(B) to the extent that there has been a fundamental change in the hazards of the workplace.

''(g) DEFINITION.—In this section, the term 'program' means the program established by the Secretary under subsection (a).''.

SEC. 6. INDEPENDENT SCIENTIFIC PEER REVIEW.

Section 6(b) (29 U.S.C. 655(b)(1)) is amended—

(1) by striking: ''(4) Within'' and inserting: ''(4)(A) Within''; and

(2) by adding at the end the following:

''(B)(i) Prior to issuing a final standard under this paragraph, the Secretary shall submit the draft final standard and a copy of the administrative record to the National Academy of Sciences for review in accordance with clause (ii).

''(ii)(I) The National Academy of Sciences shall appoint an independent Scientific Review Committee.

''(II) The Scientific Review Committee shall conduct an independent review of the draft final standard and the scientific literature and make written recommendations with respect to the draft final standard to the Secretary, including recommendations relating to the appropriateness and adequacy of the scientific data, scientific methodology, and scientific conclusions, adopted by the Secretary.

''(III) If the Secretary decides to modify the draft final standard in response to the recommendations provided by the Scientific Review Committee, the Scientific Review Committee shall be given an opportunity to review and comment on the modifications before the final standard is issued.

''(IV) The recommendations of the Scientific Review Committee shall be published with the final standard in the Federal Register.''.

SEC. 7. CONTINUING EDUCATION AND PROFESSIONAL CERTIFICATION FOR CERTAIN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PERSONNEL.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

''(h) Any Federal employee responsible for enforcing this Act shall (not later than 2 years after the date of enactment of this subsection or 2 years after the initial employment of the employee) meet the eligibility requirements prescribed under subsection (a)(2) of section 8A.

''(i) The Secretary shall ensure that any Federal employee responsible for enforcing this Act who carries out inspections or investigations under this section, receive professional education and training at least every 5 years as prescribed by the Secretary.''.

SEC. 8. INSPECTION PROCEDURES AND QUOTAS.

(a) IN GENERAL.—Section 8(f) (29 U.S.C. 657(f)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting before ''and a copy'' the following: ''and shall state whether the alleged violation has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation,'';

(B) by inserting after the third sentence the following: ''The inspection shall be conducted for the limited purpose of determining whether the violation exists. During such an inspection, the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.''; and

(C) by inserting before the last period the following: '', and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the determination of the Secretary''; and

(2) by adding at the end thereof the following:

''(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this subsection, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

''(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

''(B) there are reasonable grounds to believe that a hazard exists.

''(4) The Secretary is not required to conduct an inspection under this subsection if the Secretary determines that a request for an inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.''.

(b) QUOTAS.—Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

''(d) The Secretary shall not establish for any employee within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) a quota with respect to the number of inspections conducted, the number of citations issued, or the amount of penalties collected, in accordance with this Act.

''(e) Not later than 12 months after the date of enactment of this subsection and annually thereafter, the Secretary shall report on the number of employers that are inspected under this Act and determined to be in compliance with the requirements prescribed under this Act.''.

SEC. 9. PERSONAL RESPONSIBILITIES.

(a) THE USE OF ALTERNATIVE METHODS AS AN AFFIRMATIVE DEFENSE.—Section 9 (29 U.S.C. 658), as amended by section 8, is further amended by adding at the end the following:

''(f)(1) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence, would have known, of the presence of an alleged violation.

''(2) No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if the employer demonstrates that—

''(A) the employees of the employer have been provided with the proper training and equipment to prevent such a violation;

''(B) work rules designed to prevent such a violation have been established and adequately communicated to the employees by the employer and the employer has taken reasonable measures to discipline employees when violations of the work rules have been discovered;

''(C) the failure of employees to observe work rules led to the violation; and

''(D) reasonable measures have been taken by the employer to discover any such violation.

''(g) A citation issued under subsection (a) to an employer who violates section 5, any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that the employees of such employer were protected by alternative methods that are equally or more protective of the safety and health of the employees than the methods required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

''(h) Subsections (f) and (g) shall not be construed to eliminate or modify other defenses that may exist to any citation.''.

(b) EMPLOYEE RESPONSIBILITY.—The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by inserting after section 10 the following:

''SEC. 10A. EMPLOYEE RESPONSIBILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, an employee who, with respect to personal protective equipment, willfully violates any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, may be assessed a civil penalty, as determined by the Secretary, for each violation.

''(b) CITATIONS.—If, upon inspection and investigation, the Secretary or the authorized representative of the Secretary believes that an employee of an employer has, with respect to personal protective equipment, violated any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, the Secretary shall within 60 days issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this Act, standard, rule, regulation, or order alleged to have been violated. No citation may be issued under this section after the expiration of 6 months following the occurrence of any violation.

''(c) NOTIFICATION.—The Secretary shall notify the employee by certified mail of the citation and proposed penalty and that the employee has 15 working days within which to notify the Secretary that the employee wishes to contest the citation or penalty. If no notice is filed by the employee within 15 working days, the citation and the penalty, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

''(d) CONTESTING OF CITATION.—If the employee notifies the Secretary that the employee intends to contest the citation or proposed penalty, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance section 554 of title 5, United States Code). The Commission shall after the hearing issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after issuance of the order.''.

SEC. 10. REDUCED PENALTIES FOR PAPERWORK VIOLATIONS.

Section 17 (29 U.S.C. 666) is amended by striking subsection (i) and inserting the following:

''(i) Any employer who violates any of the posting or paperwork requirements, other than fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such a violation unless the Secretary determines that the employer has violated subsection (a) or (d) with respect to the posting or paperwork requirements.''.

SEC. 11. REVIEW BY THE COMMISSION.

Section 17 (29 U.S.C. 666) is amended by striking subsection (j) and inserting the following:

''(j) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section for a violation, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

''(1) the size of an employer;

''(2) the number of employees exposed to the violation;

''(3) the likely severity of any injuries directly resulting from the violation;

''(4) the probability that the violation could result in injury or illness;

''(5) the good faith of an employer in correcting the violation after the violation has been identified;

''(6) the history of previous violations by an employer; and

''(7) whether the violation is the sole result of the failure of an employer to meet a requirement under this Act, or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.''.

SEC. 12. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The'';

(2) by striking ''(1) provide'' and inserting ''(A) provide'';

(3) by striking ''(2) consult'' and inserting ''(B) consult''; and

(4) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions.

''(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under

subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be reimbursed by the Secretary for 90 percent of the costs incurred by the State for the provision of—

''(I) training approved by the Secretary for State personnel operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by such personnel.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

''(C) Notwithstanding any other provisions of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.''.

(b) PILOT PROGRAM.—Section 21 (29 U.S.C. 670) is amended by adding at the end the following:

''(d)(1) Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish and carry out a pilot program in 3 States to provide expedited consultation services, with respect to the provision of safe and healthful working conditions, to employers that are small businesses (as the term is defined by the Administrator of the Small Business Administration). The Secretary shall carry out the program for a period not to exceed 2 years.

''(2) The Secretary shall provide consultation services under paragraph (1) not later than 4 weeks after the date on which the Secretary receives a request from an employer.

''(3) The Secretary may impose a nominal fee to an employer requesting consultation services under paragraph (1). The fee shall be in an amount determined by the Secretary. Employers paying a fee shall receive priority consultation services by the Secretary.

''(4) In lieu of issuing a citation under section 9 to an employer for a violation found by the Secretary during a consultation under paragraph (1), the Secretary shall permit the employer to carry out corrective measures to correct the conditions causing the violation. The Secretary shall conduct not more than 2 visits to the workplace of the employer to determine if the employer has carried out the corrective measures. The Secretary shall issue a citation as prescribed under section 5 if, after such visits, the employer has failed to carry out the corrective measures.

''(5) Not later than 90 days after the termination of the program under paragraph (1), the Secretary shall prepare and submit a report to the appropriate committees of Congress that contains an evaluation of the implementation of the pilot program.''.

SEC. 13. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor shall establish and carry out a voluntary protection program (consistent with subsection (a)) to encourage and recognize the achievement of excellence in both the technical and managerial protection of employees from occupational hazards. The Secretary of Labor shall encourage small businesses (as the term is defined by the Administrator of the Small Business Administration) to participate in the voluntary protection program by carrying out outreach and assistance initiatives and developing program requirements that address the needs of small businesses.

(2) PROGRAM REQUIREMENT.—The voluntary protection program shall include the following:

(A) APPLICATION.—Employers who volunteer under the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such requirements as the Secretary of Labor may require for participation in the program.

(B) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement of citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(C) INFORMATION.—Employers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the employers shall be made readily available to the Secretary of Labor to share with employees.

(D) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the employers shall be required for continued participation in the program.

(3) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation in the program be exempt from inspections or investigations and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

SEC. 14. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking sections 29, 30, and 31;

(2) by redesignating sections 32, 33, and 34 as sections 30, 31, and 32, respectively; and

(3) by inserting after section 28 (29 U.S.C. 676) the following:

''SEC. 29. ALCOHOL AND SUBSTANCE ABUSE TESTING.

''(a) PROGRAM PURPOSE.—In order to secure a safe workplace, employers may establish and carry out an alcohol and substance abuse testing program in accordance with subsection (b).

''(b) FEDERAL GUIDELINES.—An alcohol and substance abuse testing program described in subsection (a) shall meet the following requirements:

''(1) SUBSTANCE ABUSE.—A substance abuse testing program shall permit the use of an onsite or offsite urine screening or other recognized screening methods, so long as the confirmation tests are performed in accordance with the mandatory guidelines for Federal workplace testing programs published by the Secretary of Health and Human Services on April 11, 1988, at section 11979 of title 53, Code of Federal Regulations (including any amendments to such guidelines), in a lab that is subject to the requirements of subpart B of such mandatory guidelines.

''(2) ALCOHOL.—The alcohol testing component of the program shall take the form of alcohol breath analysis and shall conform to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

''(c) TEST REQUIREMENTS.—This section shall not be construed to prohibit an employer from requiring—

''(1) an applicant for employment to submit to and pass an alcohol or substance abuse test before employment by the employer; or

''(2) an employee, including managerial personnel, to submit to and pass an alcohol or substance abuse test—

''(A) on a for-cause basis or where the employer has reasonable suspicion to believe that such employee is using or is under the influence of alcohol or a controlled substance;

''(B) where such test is administered as part of a scheduled medical examination;

''(C) in the case of an accident or incident, involving the actual or potential loss of human life, bodily injury, or property damage;

''(D) during the participation of an employee in an alcohol or substance abuse treatment program, and for a reasonable period of time (not to exceed 5 years) after the conclusion of such program; or

''(E) on a random selection basis in work units, locations, or facilities.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to establish an alcohol and substance abuse testing program for applicants or employees or make employment decisions based on such test results.

''(e) PREEMPTION.—The provisions of this section shall preempt any provision of State law to the extent that such State law is inconsistent with this section.

''(f) INVESTIGATIONS.—The Secretary is authorized to conduct testing of employees (including managerial personnel) of an employer for use of alcohol or controlled substances during any investigations of a work-related fatality or serious injury.''.

SEC. 15. CONSULTATION ALTERNATIVES.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

''(a)(1) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.

''(2) Except as provided in paragraph (3), if, upon an inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of a violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

''(3) The Secretary or the authorized representative of the Secretary—

''(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

''(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeated violation.''.

By Mr. SMITH of Oregon:

S. 1238. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18 and for other purposes; to the Committee on Labor and Human Resources.

THE TOBACCO USE BY MINORS DETERRENCE ACT OF 1997

Mr. SMITH of Oregon. Mr. President, today in America, too many teenagers have access to too much tobacco at too many stores and retail outlets. The result? Each day 3,000 more young people start smoking and get addicted to lethal tobacco products.

As Congress considers legislation to reduce teenage smoking and to address the growing public health concerns associated with the use of tobacco, I want to propose a concept that goes to the heart of the problem—keeping tobacco products out of the hands of kids. While there are numerous well-intentioned suggestions as to how to best achieve this goal, I believe that the proposal I am introducing today goes to the heart of the problem—holding both those who sell tobacco accountable and those who illegally purchase tobacco responsible. It demands the participation by store owners, clerks, parents, kids, and local law enforcement.

The proposal is a simple, direct approach: require those who sell tobacco to be licensed and trained, and hold children who illegally purchase tobacco responsible for their actions—by notifying their parents, imposing fines and community service, and restricting access to driving privileges.

With this legislation, we have an opportunity to take some incremental and immediate action today, to empower our communities in the fight against teenage tobacco use. The Tobacco Use by Minors Deterrence Act elicits cooperation among families, communities, the retailers, and law enforcement officials in the fight against tobacco use by children. Importantly, this legislation gives retailers a new leadership role and places greater responsibility on parents and minors.

First, this bill establishes a self-funding State license program for retailers to sell tobacco products, similar to liquor licenses. Second, it imposes strict penalties on store owners and employees for selling tobacco products to minors. Third, it requires employee training on all tobacco laws. Fourth, it subjects minors who are caught purchasing or using tobacco products to punishments that are meaningful to them, including the option of fines, parental notification, community service, and possible loss of driving privileges.

In my State of Oregon, restrictions on the distribution and sale of tobacco products are some of the strongest in the nation. This legislation echoes Oregon's commitment by making it more difficult for retailers across the Nation to make a profit from the illegal sale of tobacco products to children.

Just how important is it that we take immediate action? Each day that we wait for the pending FDA lawsuits, and each day that we spend talking about doing something to reduce tobacco use by our Nation's children, 3,000 more young people begin smoking. I want you to think about that for a moment. Each day, 3,000 children start smoking—-that's more than 1 million children each year. To put this into perspective, the Centers for Disease Control [CDC] estimates that 16.6 million of our children today will become regular smokers, and almost one-third, approximately 5 million children, will die from tobacco-related illness. In my State of Oregon, 191,688 children under 18 are projected to become smokers; 61,340 of those youth will die. It is time to recognize teen tobacco use for what it is—a public health epidemic.

In addition to the loss of life associated with tobacco use, there is a significant cost to our public health system. Currently, health care costs caused directly by smoking total more than $50 billion each year. We cannot afford to wait any longer. Because the longer we postpone empowering communities, families, and law enforcement officials, we do so by sacrificing the health and life of our children.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 766

At the request of Ms. SNOWE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 773

At the request of Mr. DURBIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1133

At the request of Mr. COVERDELL, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1205

At the request of Mrs. MURRAY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1205, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify that records of arrival or departure are not required to be collected for purposes of the automated entry-exit control system developed under section 110 of such Act for Canadians who are not otherwise required to possess a visa, passport, or border crossing identification card.

SENATE CONCURRENT RESOLUTION 42

At the request of Mr. D'AMATO, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day.''

SENATE RESOLUTION 124

At the request of Mr. ROTH, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

AMENDMENT NO. 1253

At the request of Mr. MACK the names of the Senator from Rhode Island [Mr. REED] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of amendment No. 1253 proposed to S. 1156, an original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

AMENDMENTS SUBMITTED

THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

JEFFORDS AMENDMENT NO. 1226

Mr. JEFFORDS proposed an amendment to the bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of the bill, add the following:

DIVISION 2—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING IMPROVEMENT ACT OF 1997

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Metropolitan Washington Education and Workforce Training Improvement Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
TITLE I—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING GRANTS
Sec. 101. Definitions.
Sec. 102. Grants.
Sec. 103. Metropolitan Partnership.
Sec. 104. Metropolitan Board.
TITLE II—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TAX
Sec. 201. Tax on income of nonresidents.
Sec. 202. Repeal of unincorporated business tax.
Sec. 203. Withholding and returns.
Sec. 204. Credit for State income tax payments.
Sec. 205. Technical amendment.
Sec. 206. Reciprocal tax collection.
Sec. 207. Metropolitan Washington Education and Workforce Training Trust Fund.
Sec. 208. Effective date.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Greater Washington Metropolitan Area has an expanding regional economy but suffers from a serious regional labor market shortage that threatens economic growth;

(2) the region's education and training systems, particularly in the District of Columbia, fail to provide many youths and adults with the skills necessary to be competitive in the regional labor market;

(3) the need for a better skilled area workforce makes it imperative that the region's businesses, educational institutions, and governments work together to provide youth and adults with the education and training necessary to meet the needs of the 21st century;

(4) the condition of school facilities is a major impediment to improving the quality of education in the District of Columbia and their repair and modernization is a necessary step in making the District's public schools a full partner in preparing students for the regional labor market;

(5) the University of the District of Columbia, as well as other area institutions of post-secondary education, have an important role to play in providing skills training to meet the needs of the regional labor market;

(6) although the present revenues for the District of Columbia public school system provide sufficient operating funds, as with other public school systems in the metropolitan region, there are insufficient revenues for programs to prepare students to compete in the global economy and or to provide students with the skills demanded by the local market: and

(7) the Greater Washington Metropolitan Area has an opportunity to set a national example of regional cooperation in engaging in education reform and workforce training.

(b) PURPOSE.—

(1) IN GENERAL.—It is the purpose of this division to foster the development of a regional workforce investment system that will bring about improvements in education and workforce preparation by—

(A) creating a metropolitan partnership through which area businesses, school systems, postsecondary institutions, and governments can cooperate in charting a course for reforms and investments in education and workforce training; and

(B) providing the Greater Washington Metropolitan Area with the resources necessary to lead the Nation in improving its capacity to provide for a highly educated and skilled workforce.

(2) NONRESIDENT TAX.—The purpose of imposing the tax established by title II is to—

(A) fund the repair and modernization of District of Columbia public schools; and

(B) provide resources to carry out the activities of a Washington metropolitan partnership as described in title I.

TITLE I—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING GRANTS

SEC. 101. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL.—The terms ''elementary school'', ''local educational agency'', and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) METROPOLITAN REGION.—The term ''metropolitan region'' means the Washington, D.C. metropolitan area, as defined by the Secretaries.

(3) POSTSECONDARY INSTITUTION.—The term ''postsecondary institution'' has the meaning given the term ''institution of higher education'' in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088).

(4) PRINCIPAL.—The term ''principal'' means an elementary school or secondary school principal.

(5) SECRETARIES.—The term ''Secretaries'' means the Secretary of Education and the Secretary of Labor, acting jointly.

(6) TEACHER.—The term ''teacher'' means an elementary school or secondary school teacher.

SEC. 102. GRANTS.

(a) IN GENERAL.—Using funds made available from the Metropolitan Washington Education and Workforce Training Trust Fund, established in section 208, the Secretaries shall make grants to agencies and organizations to assist the agencies and organizations in carrying out the education and workforce training activities described in subsection (c) in the metropolitan region.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall be a local educational agency, or a public or private organization with demonstrated ability and experience in carrying out the education and workforce training activities.

(2) WORKFORCE TRAINING.—To be eligible to receive a grant under this section to provide services described in subsection (c)(5), an entity shall—

(A) be an postsecondary institution, business, or another provider of workforce training, such as literacy services, in the metropolitan region; and

(B) have demonstrated ability and experience in providing workforce training.

(c) USE OF FUNDS.—An agency or organization that receives a grant under subsection (a) shall use funds made available through the grant to carry out activities in the metropolitan region that consist of—

(1) providing professional development activities, including access to model professional development programs, for teachers and principals;

(2) developing apprenticeships and other programs that provide business experience to teachers who are participating in vocational training or technology training;

(3) constructing, renovating, repairing, or improving elementary schools, secondary schools, or other educational facilities for workforce training programs;

(4) developing partnerships between businesses, and vocational education or vocational training providers, to carry out student internship programs;

(5) providing youth and adult workforce training with remedial help such as literacy services;

(6) establishing model benchmarks to be used in the development of rigorous education and workforce training curricula;

(7) providing for both annual and long-term evaluation and assessment of other education and workforce training activities described in this subsection, including evaluation and assessment of—

(A) the degree to which expenditures of funds made available through the grant result in improvements in the activities;

(B) the extent to which the activities succeed in preparing participants for entry into postsecondary education, further learning, or high-skill, high-wage careers;

(C) the effect of benchmarks, performance measures, and other measures of accountability on the delivery of the activities; and

(D) the extent to which vocational training enhances the employment and earning potential of participants, reduces income support costs, and increases the level of employment in the metropolitan region;

(8) assisting in the development of individual mentoring and parental involvement programs and career path records for elementary and secondary school students;

(9) establishing—

(A) voluntary skill standards for participants in workforce training; and

(B) a methodology to assess the participants and certify attainment of the standards;

(10) assessing the need for, and utilization of, educational technology in the metropolitan region, including assessment of the potential for linkages among—

(A) elementary schools or secondary schools;

(B) workforce training providers; and

(C) businesses;

(11) improving educational technology in elementary schools or secondary schools; or

(12) providing resources to extend a school year or school day for any elementary school or secondary school that elects to make such an extension.

(d) APPLICATION.—To be eligible to receive a grant under this section, an agency or organization shall submit an application to the Secretaries at such time, in such manner, and containing such information as the Secretaries may require.

(e) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—In making grants under subsection (a), the Secretaries shall, to the extent practicable, ensure that the funds made available through the grants are equitably distributed among the jurisdictions in the metropolitan region.

(2) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Any grants awarded to District of Columbia public schools under this section shall be expended in a manner consistent with section 2101(b)(1) of Public Law 104–134.

(f) MAINTENANCE OF EFFORT.—

(1) DEFINITION.—As used in this subsection, the term ''covered activities'' means education and workforce training activities described in subsection (c) and carried out in the District of Columbia.

(2) IN GENERAL.—Except as provided in paragraphs (3) and (4), no payments shall be made under this title for any fiscal year to an agency or organization for covered activities, unless the Secretaries determine that the fiscal effort per participant or the aggregate expenditures of the agency or organization for the activities for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded the effort or expenditures for the activities for the second fiscal year preceding the fiscal year for which the determination is made.

(3) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to paragraph (2), the Secretaries shall exclude capital expenditures, special one-time project costs, similar windfalls, and the cost of pilot programs.

(4) DECREASE IN FEDERAL SUPPORT.—If the amount made available for covered activities under this title for a fiscal year is less than the amount made available for the activities under this title the preceding fiscal year, then the fiscal effort per participant or the aggregate expenditures of the agency or organization required by paragraph (2) for the preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(g) TECHNICAL ASSISTANCE FOR SKILL STANDARDS AND METHODOLOGY.—If the Secretaries make a grant to an agency or organization under this section to establish the standards and methodology described in subsection (c)(7), the National Skill Standards Board established under section 503 of the National Skill Standards Act of 1994 (29 U.S.C. 5933) shall provide technical assistance to the agency or organization.

SEC. 103. METROPOLITAN PARTNERSHIP.

(a) ESTABLISHMENT.—There is established in the Department of Labor and the Department of Education a Metropolitan Washington Education and Workforce Training Partnership (referred to in this title as the ''Metropolitan Partnership''), under the joint control of the Secretary of Labor and the Secretary of Education.

(b) ADMINISTRATION.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled ''An Act To Create a Department of Labor'', approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 169 of the Job Training Partnership Act (29 U.S.C. 1579), the Secretaries shall provide for, and exercise final authority over, the effective and efficient administration of this title and the officers and employees of the Metropolitan Partnership.

(c) RESPONSIBILITIES OF SECRETARIES.—The Secretaries, working through the Metropolitan Partnership, shall approve the applications, and make the grants, described in section 102.

SEC. 104. METROPOLITAN BOARD.

(a) METROPOLITAN BOARD.—

(1) COMPOSITION.—There is established, in the Metropolitan Partnership, a Metropolitan Washington Education and Workforce Training Board (referred to in this title as the ''Metropolitan Board'') that shall be composed of 13 individuals, including—

(A) 7 individuals who are representative of business and industry in the metropolitan region, appointed by the President;

(B) 3 individuals who are representative of providers of secondary education, postsecondary education, and workforce training in the metropolitan region, appointed by the President; and

(C) 3 individuals who are representative of local government officers and employees in the metropolitan region, including at least 1 representative of a local government in Maryland, 1 representative of a local government in Virginia, and 1 representative of the local government of the District of Columbia, appointed by the President.

(2) TERMS.—Each member of the Metropolitan Board shall serve for a term of 3 years, except that, as designated by the President—

(A) 5 of the members first appointed to the Metropolitan Board shall serve for a term of 2 years;

(B) 4 of the members first appointed to the Metropolitan Board shall serve for a term of 3 years; and

(C) 4 of the members first appointed to the Metropolitan Board shall serve for a term of 4 years.

(3) VACANCIES.—Any vacancy in the Metropolitan Board shall not affect the powers of the Metropolitan Board, but shall be filled in the same manner as the original appointment. Any member appointed to fill such a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed.

(4) DUTIES AND POWERS OF THE METROPOLITAN BOARD.—The Metropolitan Board shall—

(A) provide advice to the Secretary of Labor and the Secretary of Education regarding reviewing and approving applications, and making grants, described in section 102; and

(B) prepare and submit to the appropriate committees of Congress an annual report on the activities of the Metropolitan Partnership.

(5) CHAIRPERSON.—The position of Chairperson of the Metropolitan Board shall rotate annually among the appointed members described in paragraph (1)(A).

(6) MEETINGS.—The Metropolitan Board shall meet at the call of the Chairperson but not less often than 4 times during each calendar year. Seven members of the Metropolitan Board shall constitute a quorum. All decisions of the Metropolitan Board with respect to the exercise of the duties and powers of the Metropolitan Board shall be made by a majority vote of the members of the Metropolitan Board.

(7) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Members of the Metropolitan Board shall serve without compensation. Notwithstanding section 1342 of title 31, United States Code, the Secretaries may accept the voluntary and uncompensated services of members of the Metropolitan Board.

(B) EXPENSES.—The members of the Metropolitan Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Metropolitan Board.

(8) DATE OF APPOINTMENT.—The Metropolitan Board shall be appointed not later than 120 days after the date of enactment of this Act.

(9) NONTERMINATION OF BOARD.—Section 14 of the Federal Advisory Committee Act shall not apply to the Metropolitan Board.

(b) DIRECTOR.—

(1) IN GENERAL.—There shall be in the Metropolitan Partnership a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—The Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) DUTIES.—The Director shall carry out the administrative duties of the Metropolitan Partnership.

(4) DATE OF APPOINTMENT.—The Director shall be appointed not later than 120 days after the date of enactment of this Act.

(c) PERSONNEL.—

(1) APPOINTMENTS.—The Director may appoint and fix the compensation of 2 employees to carry out the functions of the Metropolitan Partnership. Except as otherwise provided by law, such employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Director may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director may pay experts and consultants who are serving away from their homes or regular places of business travel

expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Metropolitan Partnership without reimbursement, and such detail shall be without interruption or loss of civil service or privilege.

(4) USE OF VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Labor and the Secretary of Education are authorized to accept voluntary and uncompensated services in furtherance of the objectives of this title.

(5) MONETARY CONTRIBUTIONS.—Notwithstanding any other provision of law, the Metropolitan Partnership may accept monetary contributions to defray expenses.

TITLE II—METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TAX

SEC. 201. TAX ON INCOME OF NONRESIDENTS.

(a) DEFINITION.—

(1) IN GENERAL.—Title III of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1803.1—47–1803.2) is amended by adding at the end thereof the following new section:

''SEC. 4. GROSS INCOME AND EXCLUSION THEREFROM IN THE CASE OF NONRESIDENTS.—(a) In the case of nonresidents, the words 'gross income' shall include—

''(1) gains, profits, and income derived from salaries, wages, or compensation for personal services performed within the District of whatever kind and in whatever form paid, including salaries, wages, and compensation paid by the United States to its officers and employees, or income derived from any trade or business carried on within the District within the meaning of title X of this article or sales or dealings in property located within the District, whether real or personal, including capital assets as defined in this article, growing out of the ownership, or sale of, or interest in, such property; and

''(2) income derived from rent, on such property located within the District, or transactions of any trade or business carried on within the District within the meaning of title X of this article for gain or profit, or gains or profits.

''(b) In the case of nonresidents, the words 'gross income' shall not include any of the income described in subsection (b) of section 2 of this title.''.

(2) CONFORMING AMENDMENT.—Section 2 of such title III (D.C. Code, sec. 47–1803.2) is amended by striking out ''.—(a) The'' and inserting in lieu thereof ''IN THE CASE OF RESIDENTS.—(a) In the case of residents, the''.

(b) INCOME TAX ON NONRESIDENTS.—

(1) IN GENERAL.—The District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1801.1—47–1816.3) is amended by adding at the end thereof the following new title:

''TITLE XVII—INCOME TAX ON NONRESIDENTS

''SEC. 1. INCOME TAX ON NONRESIDENTS.—(a) For each taxable year, there is imposed on the taxable income of each nonresident an income tax determined at a rate equal to one-third of the rate applicable in the case of a resident under title VI of this article.

''(b) In computing the net income of a nonresident for purposes of this title, such nonresident shall be allowed a deduction equal to that portion of the deductions which would be allowed under any paragraph of section 3(a) of title III of this article to the nonresident if such nonresident were a resident which bears the same ratio to the sum of such deductions as the income of such nonresident subject to tax under this title bears to the gross income of such nonresident from all sources.

''(c) In computing taxable income for purposes of this title, there shall be allowed to nonresidents as credits against net income the personal exemptions allowed to residents under section 2 of title VI.

''SEC. 2. LIMITATION ON AUTHORITY OF THE COUNCIL TO REVISE TAX ON NONRESIDENTS.—The Council of the District of Columbia may not—

''(1) amend or otherwise revise this title so as to impose any additional or greater tax on the whole or any portion of the personal income of any nonresident unless at the same time it also amends or revises title VI of this article so as to impose the same proportion of additional or greater tax on the whole or portion of the personal income of any resident as was imposed on the whole or portion of the personal income of a nonresident; or

''(2) provide any deductions or personal exemptions to residents which are not also available, in accordance with section 1 of this title, in the case of nonresidents.

''SEC. 3. DISPOSITION OF REVENUES.—The District of Columbia shall allocate the revenues received under this title as follows:

''(1) One-third of the revenues shall be transferred to the District of Columbia Financial Responsibility and Management Assistance Authority for the purpose of funding the repair and modernization of public schools in the District of Columbia.

''(2) Two-thirds of the revenues shall be transferred to the Metropolitan Washington Education and Workforce Training Trust Fund established by section 208 of the Metropolitan Washington Education and Workforce Training Improvement Act of 1997.''.

(2) PHASE-IN OF TAX.—The income tax imposed by title XVII of the District of Columbia Income and Franchise Tax Act of 1947 (as added by paragraph (1) of this subsection) shall be phased in as follows:

(A) In the calendar year beginning after the date of enactment of this Act, the rate shall be ½ of the rate imposed and revenues received shall be expended as provided in section 3(1) of title XVII.

(B) In the calendar year beginning after the calendar year referred to in subparagraph (A), the rate shall be the full rate imposed and revenues received shall be expended ⅓ as provided in section 3(1) and ⅔ as provided in section 3(2) of title XVII.

(3) EXISTING TAX ON NONRESIDENTS.—Title VI of such Act is amended—

(A) in the title heading, by striking out ''AND NONRESIDENTS''; and

(B) in section 1 (D.C. Code, sec. 47–1806.1)—

(i) by striking out ''every resident'' and inserting in lieu thereof ''an individual'', and

(ii) by inserting ''in the case of residents and by section 1(c) of title XVII in the case of nonresidents'' immediately after ''this title''.

SEC. 202. REPEAL OF UNINCORPORATED BUSINESS TAX.

(a) IN GENERAL.—Title VIII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1808.1—47–1808.7) is amended—

(1) in the title heading, by striking out ''TAX ON'' and inserting in lieu thereof ''NET INCOME OF''; and

(2) by repealing sections 2 through 6 and inserting in lieu thereof the following:

''SEC. 2. NET INCOME OF UNINCORPORATED BUSINESSES.—(a) An unincorporated business as such shall not be subject to tax under this article. Individuals carrying on a trade or business as an unincorporated business shall be liable in their individual capacity, under title VI of this article in the case of residents and under title XVII of this article in the case of nonresidents, for tax with respect to their distributive share, whether distributed or not, of the net income of such unincorporated business derived from sources within the District within the meaning of title X of this article. If an individual entitled to a distributive share of such net income of an unincorporated business computes his income tax under this article upon the basis of a period different from that upon the basis of which the net income of the unincorporated business is computed, then his distributive share of the net income of the unincorporated business for any accounting period of the unincorporated business ending within the taxable year upon the basis of which such individual's income tax is computed shall be included in computing such tax.

''(b) If the deductions which are allowed or allowable to an unincorporated business under section 3(a) of title III of this article exceed the gross income of such unincorporated business derived from sources within the District within the meaning of title X of this article, the distributive shares of such excess deductions shall be allowed as deductions to the individuals entitled thereto in determining their individual tax liability under title VI of this article in the case of residents and under title XVII of this article in the case of nonresidents, except that in the case of a nonresident such excess deductions shall be allowed to the nonresident only to the extent provided in section 1(b) of such title XVII. If an individual entitled to a distributive share of the excess deductions of an unincorporated business computes his income tax under this article upon the basis of a period different from that upon the basis of which the net income of the unincorporated business is computed, then his distributive share of the excess deductions of the unincorporated business for any accounting period of the unincorporated business ending within the taxable year upon the basis of which such individual's income tax is computed shall be included in computing such tax.

''(c) In computing the net income or the excess deductions of an unincorporated business for purposes of this title, the full amount of the deductions described in section 3(a) of title III of this article shall be allowed to such unincorporated business notwithstanding that a nonresident may be entitled to a distributive share of such net income or excess deductions.''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1 of title III of such Act (D.C. Code, sec. 47–1803.1) is amended by inserting ''or unincorporated business, as the case may be,'' immediately after ''taxpayer''.

(B) Paragraph (11) of section 3(a) of such title (D.C. Code, sec. 47–1803.3(a)(11)) is amended to read as follows:

''(11) REASONABLE ALLOWANCE FOR SALARY.—A reasonable allowance for salaries or other compensation for personal services actually rendered. Nothing in this paragraph shall be construed to exempt any salary or other compensation for personal services from taxation as part of the taxable income of the person receiving such salary or other compensation.''.

(C) Such section 3(a) (D.C. Code, sec. 47–1803.3(a)) is further amended by adding at the end thereof the following new paragraph:

''(15) EXCESS DEDUCTIONS OF AN UNINCORPORATED BUSINESS.—In the case of an individual, the distributive share of any excess deductions for an unincorporated business to which the individual is entitled under section 2(b) of title VIII of this article.''.

(D) Paragraph (5) of section 3(b) of such title (D.C. Code, sec. 47–1803.3(b)(5)) is repealed.

(2)(A) Paragraph (f) of such section (D.C. Code, sec. 47–1805.2(6)) is amended—

(i) in the first sentence, by striking out ''having a gross income of more than $12,000, regardless of whether or not it has a net income''; and

(ii) in the second sentence, by striking out ''the taxpayer or taxpayers liable for payment of the tax'' and inserting in lieu thereof ''the individual or individuals who would be entitled to share in the net income of the unincorporated business, if distributed, and shall include the name and address of each such individual and the amount of the distributive share of each such individual in the net income of the unincorporated business or, if the allowable deductions of the unincorporated business exceed its gross income, the allocation among such individuals of such excess allowable deductions''.

(B) Paragraph (g) of such section (D.C. Code, sec. 47–1805.2(7)) is amended by striking out ''other than partnerships subject to the taxes imposed by title VIII of this article on unincorporated businesses, engaged in any trade or business, or'' and inserting in lieu thereof ''not required to file a return under paragraph (f), which is''.

(3) Section 1 of title VI of such Act (D.C. Code, sec. 47–1806.1) is amended by striking out ''and that portion of the entire net income of every nonresident which is subject to tax under title VIII of this article''.

(4) Section 1 of title X of such Act (D.C. Code, sec. 47–1810.1) is amended by striking ''and (2) a franchise tax upon every corporation and unincorporated business'' and inserting ''(2) an income tax on certain income of nonresidents which is derived from sources within the District, and (3) a franchise tax upon every corporation''.

(5)(A) Section 8(a) of title XII of such Act (D.C. Code, sec. 47–1812.8(a)) is amended by striking out ''or unincorporated business'' each place it appears.

(B) Section 14 of such title (D.C. Code, sec. 47–1812.14–1) is amended—

(i) in the section caption, by striking out ''AND UNINCORPORATED BUSINESSES'';

(ii) in the first sentence of subsection (a), by striking out ''and unincorporated business''; and

(iii) in subsection (b)—

(I) in the subsection caption, by striking out ''OR UNINCORPORATED BUSINESS'', and

(II) in paragraph (1), by striking out ''or an unincorporated business''.

(6) The first sentence of section 1(a) of title XIV of such Act (D.C. Code, sec. 47–1814.1(a)) is amended by striking out ''which is excluded from the imposition of the District of Columbia tax on unincorporated businesses under the definition set forth in section 1 of title VIII of this article''.

SEC. 203. WITHHOLDING AND RETURNS.

(a) WITHHOLDING.—

(1) Section 8(b)(1) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1812.8(b)(1)) is amended by inserting before the first sentence the following: ''Every employer making payment of wages to a nonresident shall deduct and withhold a tax upon such wages in accordance with regulations which the Council of the District of Columbia shall promulgate.''.

(2) Section 8(i)(1) of such title (D.C. Code, sec. 47–1812.8(i)(1)) is amended to read as follows:

''(1)(A) Every person residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at such times, make a declaration of his estimated tax for the taxable year if—

''(i) the gross income for the taxable year can reasonably be expected to consist of wages and of not more than $1,000 from sources other than such wages, and can reasonably be expected to exceed the total amount of the personal exemptions to which he is entitled under this article plus $5,000; or

''(ii) the gross income can reasonably be expected to include more than $1,000 which is not subject to the withholding provisions of this article, and can reasonably be expected to exceed the personal exemptions to which he is entitled under this article, plus $500.

''(B) Every person not residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at such times, make a declaration of his estimated tax for the taxable year if such person can reasonably be expected to have more than $4,500 in taxable income, as determined under section 1 of title XVII of this article, for the taxable year which is not subject to withholding under the regulations promulgated by the Council of the District of Columbia pursuant to the first sentence of subsection (b).

''(C) Under this article, a declaration of estimated tax shall be considered a return of income.''.

(b) FEDERAL WITHHOLDING.—Section 5516(a) of title 5, United States Code, is amended to read as follows:

''(a)(1) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the District of Columbia Financial Responsibility and Management Assistance Authority, which agreement shall provide that the head of each agency of the United States shall comply with the requirements of the District of Columbia Income and Franchise Tax Act of 1947 in the case of employees of the agency who are subject to income taxes imposed by such Act and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay for service as a member of the Armed Forces.

''(2) For purposes of this section—

''(A) the term 'agency' means—

''(i) any executive agency, including any independent establishment or wholly owned instrumentality of the Federal Government;

''(ii) the Administrative Office of the United States Courts;

''(iii) the General Accounting Office;

''(iv) the Library of Congress;

''(v) the Botanic Garden;

''(vi) the Government Printing Office; and

''(vii) the Office of the Architect of the Capitol; and

''(B) the term 'employee' means any employee and any officer of the United States and includes the President and Vice President and any justice or judge of the United States.''.

SEC. 204. CREDIT FOR STATE INCOME TAX PAYMENTS.

Section 5(a) of title VI of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1806.4(a)), as amended by section 3(b)(3)(B) of this Act, is further amended—

(1) by inserting ''(1)'' immediately before ''The'' in the first sentence; and

(2) by adding at the end thereof the following new paragraph:

''(2) If any income of a resident which is subject to taxation under this title is also subject to an income tax under the laws of another State, the income tax payable on such income to such other State shall be allowed as a credit to the resident against the tax imposed by this title, except that (A) the credit allowed under this paragraph may not exceed the amount of tax which would be payable under this title on such income, and (B) no credit shall be allowed under this paragraph if the other State allows a credit against the income tax imposed by such State for the tax paid under this title. Proof of payment of income tax to another State shall be required before credit for such tax is allowed under this paragraph.''.

SEC. 205. TECHNICAL AMENDMENT.

The table of contents for the District of Columbia Revenue Act of 1947 (article I of which constitutes the District of Columbia Income and Franchise Tax Act of 1947) is amended as follows:

(1)(A) In the item relating to section 2 of title III of article I, insert ''in the case of residents'' immediately before the period.

(B) Immediately after the item relating to section 3(b) of such title, insert the following:

''Sec. 4. Gross income and exclusion therefrom in the case of nonresidents.''.

(2) In the item relating to the title heading for title VI of article I, striking out ''AND NONRESIDENTS''.

(3)(A) In the item relating to the title heading for title VIII of article I, strike out ''TAX ON'' and insert in lieu thereof ''NET INCOME OF''.

(B) Strike out the items relating to sections 2 through 6 of such title VIII and insert in lieu thereof the following:

''Sec. 2. Net income of unincorporated businesses.''.

(4)(A) In the item relating to subsection 14 of title XII of article I, strike out ''and unincorporated businesses''.

(B) In the item relating to subsection (b) of such section, strike out ''or unincorporated business''.

(5) Immediately after the item relating to title XVI of article I, insert the following new item:

''TITLE XVII—INCOME TAX ON NONRESIDENTS

''Sec. 1. Income tax on nonresidents.

''Sec. 2. Limitation on authority of the Council to revise tax on nonresidents.''.

SEC. 206. RECIPROCAL TAX COLLECTION.

(a) IN GENERAL.—Any State, territory, or possession, by and through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it when the reciprocal right is accorded to the District by such State, territory, or possession, whether such right is granted by statutory authority or as a matter of comity.

(b) PROOF.—The certificate of the Secretary of State or other authorized official of any State, territory, or possession, or subdivision thereof, to the effect that the official instituting the suit for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of that authority.

(c) DEFINITION.—For the purposes of this section, the term ''taxes'' includes—

(1) any and all tax assessments lawfully made, whether they be based upon a return or other disclosure of the taxpayer, or upon the information and belief of the taxing authority, or otherwise;

(2) any and all penalties lawfully imposed pursuant to a taxing statute, ordinance, or regulation; and

(3) interest charges lawfully added to the tax liability which constitutes the subject of the suit.

(d) AUTHORIZATION OF SUIT.—The Corporation Council or any of his assistants is authorized to bring suit in the name of the District of Columbia in the courts of States, territories, and possessions, and subdivisions thereof, to collect taxes lawfully due the District. The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to procure professional and other services, at such rates as may be usual and customary for such services in the

jurisdiction concerned, when he deems it necessary for the prosecution of any suit authorized by this section.

SEC. 207. METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the Metropolitan Washington Education and Workforce Training Trust Fund (hereafter in this section referred to as the ''Trust Fund''), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2) of this section.

(b) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TARIFFS.—

(1) IN GENERAL.—The District of Columbia Financial Responsibility and Management Assistance Authority shall transfer to the Trust Fund an amount equal to ⅔ of the revenues received by the District of Columbia from the tax imposed by title XVII of the District of Columbia Income and Franchise Tax Act of 1947 (as added by section 201 of this division).

(2) EFFECTIVE DATE.—The transfers required by paragraph (1) shall begin at the end of the first quarter of the calendar year beginning after the calendar year referred to in section 201(b)(2)(A).

(3) TRANSFERS BASED ON ESTIMATES.—The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the District of Columbia to the Trust Fund on the basis of estimates made by the District of Columbia Financial Responsibility and Management Assistance Authority. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, of the United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) OBLIGATIONS FROM TRUST FUND.—The Secretary of Labor and the Secretary of Education are authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for grants as provided in section 101 of this division.

(e) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Labor or the regional authority, as appropriate) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title and this title shall take effect at the beginning of the calendar year beginning after the date of enactment of this Act, and shall apply with respect to taxable years beginning on or after such date.

BYRD AMENDMENTS NOS. 1267–1269

Mr. BYRD proposed three amendments to the bill, S. 1156, supra; as follows:

AMENDMENT NO. 1267

At the appropriate place, insert the following:

SEC. . (a) Chapter 29 of title 12A of the District of Columbia Municipal Regulations (D.C. Building Code Supplement of 1992; 39 DCR 8833) is amended by adding the following 2 new sections 2915 and 2916 to read as follows:

''Section 2915.0 Alcoholic Beverage Advertisements.

''2915.1 Notwithstanding any other law or regulation, no person may place any sign, poster, placard, device, graphic display, or any other form of alcoholic beverage advertisements in publicly visible locations. For the purposes of this section 'publicly visible location' includes outdoor billboards, sides of buildings, and freestanding signboards.

''2915.2 This section shall not apply to the placement of signs, including advertisements, inside any licensed premises used by a holder of a licensed premises, on commercial vehicles used for transporting alcoholic beverages, or in conjunction with a one-day alcoholic beverage license or a temporary license.

''2915.3 This section shall not apply to any sign that contains the name or slogan of the licensed premises that has been placed for the purpose of identifying the licensed premises.

''2915.4 This section shall not apply to any sign that contains a generic description of beer, wine, liquor, or spirits, or any other generic description of alcoholic beverages.

''2915.5 This section shall not apply to any neon or electrically charged sign on a licensed premises that is provided as part of a promotion of a particular brand of alcoholic beverages.

''2915.6 This section shall not apply to any sign on a WMATA public transit vehicle or a taxicab.

''2915.7 This section shall not apply to any sign on property owned, leased, or operated by the Armory Board.

''2915.8 This section shall not apply to any sign on property adjacent to an interstate highway.

''2915.9 This section shall not apply to any sign located in a commercial or industrial zone.

''2915.10 Any person who violates any provision of this section shall be fined $500. Every person shall be deemed guilty of a separate offense for every day that violation continues.''.

(b) The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 1268

On page 49, between lines 13 and 14, insert the following:

SEC. 148. There are appropriated from applicable funds of the District of Columbia such sums as may be necessary to hire 12 additional inspectors for the Alcoholic Beverage Control Board. Of the additional inspectors, 6 shall focus their responsibilities on the enforcement of laws relating to the sale of alcohol to minors.

AMENDMENT NO. 1269

At the appropriate place, insert the following:

SEC. . (a) Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall conduct and submit to Congress a study of—

(1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions;

(2) the effects of the District of Columbia's lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in the District of Columbia;

(3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and

(4) ways in which those increased revenues can be used to lower consumption and promote abstention from alcohol among young people.

(b) The study should consider whether—

(1) alcohol is being sold in proximity to schools and other areas where children are likely to be; and

(2) creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

THE ENERGY POLICY AND CONSERVATION ACT EXTENSION ACT OF 1997

MURKOWSKI AMENDMENT NO. 1270

Mr. LOTT (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act; as follows:

Strike all after the enacting clause and insert in lieu thereof:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking ''for fiscal year'' and inserting in lieu thereof ''through October 31,'';

''(2) in section 181 (42 U.S.C. 6251) by striking ''September 30'' both places it appears and inserting in lieu thereof ''October 31''; and

''(3) in section 281 (42 U.S.C. 6285) by striking ''September 30'' both places it appears and inserting in lieu thereof ''October 31''.''.

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President. I previously announced for the benefit of Members and the public that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources scheduled a hearing to receive testimony on the following measures:

S. 725—To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District;

S. 777—To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes;

H.R. 848—To extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes;

H.R. 1184—To extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes; and

H.R. 1217—To extend the deadline under the Federal Power Act for the construction of a hydroelectric project in the State of Washington, and for other purposes.

In addition to these bills the subcommittee will also consider S. 1230, a bill to amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects; and S. 841, to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes.

The hearing will take place on Tuesday, October 7, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact Betty Nevitt, Staff Assistant, at (202) 224–0765 or write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, to conduct a hearing of the following nominees: Laura S. Unger, of New York, to be a commissioner of the Securities and Exchange Commission; Paul R. Carey, of New York, to be a commissioner of the Securities and Exchange Commission; Dennis Dollar, of Mississippi, to be a member of the National Credit Union Administration Board; Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve; Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve; and Ellen Seidman, of the District of Columbia, to be a director of thrift supervision.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MACK. Mr. President, I ask unanimous consent the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, September 30, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the impact of a new climate treaty on U.S. labor, electricity supply, manufacturing, and the general economy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MACK. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider S. 1180, the Endangered Species Recovery Act of 1997, Tuesday, September 30, 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, at 4:00 p.m. to hold a House/Senate conference.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MACK. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee special investigation to meet on Tuesday, September 30, at 10 a.m., for a hearing on campaign financing issues.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on tobacco settlement during the session of the Senate on Tuesday, September 30, 1997, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 30, 1997 at 2 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on the nomination of Raymond C. Fisher, Jr., of California, to be Associate Attorney General.

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

COMMITTEE ON THE JUDICIARY

Mr. MACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 30, 1997 at 3 p.m. in room 226 of the Senate Dirksen Office Building to hold a Judicial Nominations hearing.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. MACK. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, September 30, 1997, at 10:30 a.m. to hold a hearing in room 226, Senate Dirksen Building, on ''Unconstitutional Set-Asides: ISTEA's Race-Based Set-Asides After ADARAND.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 30, 1997, at 2:30 p.m., on Fast Track.

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

ADDITIONAL STATEMENTS

NOMINATION OF BILL LANN LEE

• Mrs. BOXER. Mr. President, I take the floor today to speak about the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights at the Department of Justice. I urge the Judiciary Committee to act expeditiously on this nomination and send it to the full Senate for a vote.

Bill Lann Lee brings outstanding legal, educational and personal credentials to this important position. Most recently, he served as the western regional counsel for the NAACP Legal Defense and Education Fund. Mr. Lee is also regarded by many as a skilled consensus-builder with a knack for finding pragmatic solutions, earning him praise from allies and adversaries alike. His numerous accomplishments in litigation and over 20 years of experience in civil rights work have established him as one of the most experienced civil rights lawyers in the Nation.

Bill Lee was inspired to become a civil rights lawyer by his father, who was subjected to discrimination in

housing and other areas because of his race, even after serving his country loyally in the U.S. Army during World War II. Witnessing this bigotry had a profound impact on young Bill. After graduating from Columbia Law School in 1974, he entered the legal profession with a passion for serving the public interest and advocating for civil rights.

Bill Lee will bring a passion and commitment to the cause of civil rights and equal treatment under law for all Americans. He is a tremendous role model for all Americans who care about civil rights. Early in life, he recognized the importance of public service and he has dedicated his life to it.

On that point, I would like to take this opportunity to express my concern that many Americans, especially those with Asian names or of Asian heritage, may be less interested in becoming involved in public life as a result of a series of unfortunate and disparaging remarks made by some in the media and in public positions.

Such remarks and misperceptions appeal to the worst human instincts when we should be appealing to the best. A recent study by the National Asian Pacific American Legal Consortium documented an increase last year in hate crimes targeting Asian Pacific Americans.

This disturbing trend demonstrates that now is the time for these issues to be handled fairly, thoroughly and expediently, under strong new leadership by the Justice Department's Civil Rights Division. ●

DEPARTMENT OF DEFENSE APPROPRIATIONS CONFERENCE REPORT

SECTION 8123

● Mr. SPECTER. Mr. President, I would like to enter into a colloquy with Senate Appropriations Committee Chairman TED STEVENS concerning section 8123 of the fiscal year 1998 Defense appropriations bill, H.R. 2266.

Is it the chairman's expectation that the Secretary of Defense will not exercise the authority in section 8123 with regard to specialty steel and other steel products encompassed in the following Harmonized System of Tariffs (HTS) numbers: 7208 (carbon steel); 7218 through 7223 (stainless steel); 7224 through 7229 (alloy steels, high speed tool steels and electrical steels); 7304 through 7306 (stainless steel pipe and tube); 7502 through 7508 (nickel-based alloys; 8105, 8108, 8109 (cobalt/titanium/zirconium-based alloys); 8211, 8215 (stainless steel flatware) unless the failure of the Secretary of Defense to exercise such waiver authority pursuant to section 8123 will trigger unilateral retaliatory sanctions by a foreign country?

Mr. STEVENS. The Senator is correct.

Mr. D'AMATO. I would like to associate myself with the comments of the senior Senator from Pennsylvania, Mr. SPECTER, and underscore my similar expectation that the Secretary of Defense will not exercise the authority in section 8123 with regard to the products enumerated by Senator SPECTER. ●

50TH ANNIVERSARY OF ELLSWORTH AIR FORCE BASE'S 28TH BOMB WING

● Mr. JOHNSON. Mr. President, I would like to take this opportunity to recognize the men and women of Ellsworth Air Force Base's 28th Bomb Wing and join them in their celebration of the Air Force's and the bomb wing's 50th anniversary.

This is a wonderful time to reflect on the remarkable role the U.S. Air Force and the 28th Bomb Wing have played in our national security and to look toward the future at the growing importance air superiority will have in maintaining the peace around the world. These past five decades have provided countless successes and great memories for the men and women who piloted, maintained, and provided oversight to the numerous important missions of the U.S. Air Force. Our country owes all who have served a debt of gratitude.

The 28th Bomb Wing was born in August 1947 when the Strategic Air Command organized the wing at Rapid City Army Air Field, later renamed Ellsworth Air Force Base, SD. In 1949, the 28th participated in the first of a long line of historical missions when B–29's flew a 90-day show-of force mission during the Soviet blockade of Berlin. At the start of the cold war, the B–29's gave way to B–36 Peacemakers in 1950 as the 28th provided an umbrella of security for NATO countries.

The crews of the B–36 were dedicated to their missions—primarily reconnaissance and to gather photographic and electronic information. However, according to B–36 crew chief Bill Shoemaker, they did everything from drop haybales to stranded livestock during the terrible winters of 1949 and 1950 for Operation Haylifts; transport Thanksgiving turkeys to soldiers in Greenland; attend the coronation of Queen Elizabeth II, and take a member of the royal family on a short flight. The ability to perform any job, and do it well, was the hallmark of the B–36 crew and a trait that has been reflected in the personnel of the 28th throughout the years.

Senior Master Sgt. Dave Sitch spent 6 of his 26 years of military service at Ellsworth Air Force Base as part of the 28th Bomb Wing—1951–55, 1974–76. ''In the days of the '36 and as part of the 28th, that was the closest group I had ever been in. There was a lot of competition among the squadrons, but there was a lot of camaraderie too. We looked out for each other.''

Jet technology changed the face of aeronautics, and the all-jet B–52 Stratofortress started replacing the Peacemakers in 1957. The 28th Bomb Wing played an important role in the Vietnam war, flying both bombers and tankers for 9 years. Over the next 20 years, Ellsworth Air Force Base became a vital component of our country's defensive strategy as the 28th assumed the bomber role in the Strategic Projection Force. The B–52 mission expanded to include sea reconnaissance, surveillance, and conventional operations from forward bases, and Ellsworth Air Force Base's reach extended to a number of hot spots overseas.

Don Strachan spent 10 years as a member of the 28th Bomb Wing at Ellsworth Air Force Base. He recalls a time when the B–52's participated in an operation titled Airborne Alert, in which one-third of the entire B–52 fleet was expected to remain airborne at all times between 1957 and 1960. ''Some of the wings couldn't handle it, but the 28th filled in. We never failed to meet our commitment. It was like family. We supported everyone extremely well. The esprit de corps was unmatched. There was a great deal of sharing among the crews. People would come in and observe our operations.''

Strachan and Shoemaker recalled conducting maintenance on planes in desperately cold temperatures. While stationed with the B–36's in Greenland, Shoemaker recalled, ''It was so cold, you couldn't do anything. We worked under the lights on ramps. It was so dark all the time.'' Strachan said maintenance crews worked in chill factors that were 100 degrees below zero. ''Nothing stopped the 28th,'' said Strachan.

Fred Hurst spent six different stints totaling 19 years at Ellsworth Air Force Base as a member of the 28th Bomb Wing. For many years, he served as president of the 28th Bomb Wing Reunion Association and was recently succeeded in the position by Strachan. Hurst spent 30 years of military service, working in maintenance on B–29's, B–36's, and B–52's and retired from military service as a chief master sergeant. He retired last year as a civilian worker and advisor on B–1B operations. Hurst says the 28th Bomb Wing has always been admired for its professionalism and efficiency. ''It is a good wing. It's been at the top for so many years as far as performance goes. It has a great safety record. Whenever someone had a problem, everyone and his brother tried to help him.''

Mike Isaman spent a total of 15 years at Ellsworth Air Force Base over two stints. As a member of the 28th Bomb Wing, Isaman said teamwork was key to the success of any operation, as well as to the success of the Wing and the Base. ''We were all friends. Everyone looked out after each other. It was a team. It worked together. They all stood together. We would do anything possible for other crews and squadrons.''

The Air Force introduced the next generation of bombers, the B–1B Lancer, in 1987, and once again, the 28th took the lead in housing the sleek new bombers. Adding to its already storied combat experience, the wing deployed

both tanker and airborne command post aircraft to Operations Desert Shield/Desert Storm. Following action in the Persian Gulf, B–1's were taken off alert, and the world began to settle into the post-cold war era. The 28th Bomb Wing, successful in protecting the United States for five decades began the transition from the strategic role to an all-conventional mission. Once again, the 28th shone brightly as the bomb wing successfully participated in the congressionally directed operational readiness assessment known as Dakota Challenge in 1994. The 77th Bomb Squadron was activated at Ellsworth Air Force Base in April 1997, and the 28th Bomb Wing will continue to stand tall as the ''Pioneer of Peace for the 21st Century.''

I strongly support the B–1B program and share the view of the Air Force that the B–1B is the backbone of our bomber force. It deserves this reputation because of the versatility, efficiency, and effectiveness of the craft. To the flight crews as well as the ground support, administrative staff, security personnel, base support, and hospital personnel who served and continue to serve as part of the 28th, I salute and commend your efforts. The active duty members, families, and retirees have forged an unbreakable bond with the communities of Box Elder and Rapid City.

Mr. President, I would like to take this opportunity to thank all of those associated with Ellsworth and the Air Force for their impressive efforts and for their commitment to South Dakota and the United States. I know they have had an illustrious past, and I know they will continue their success in the future. Their missions will continue, although modified to fit the requirements of the post-cold war world, and I have no doubt that they will continue to be the ''first to fight with decisive combat airpower that achieves the aims of the combatant commander's campaign'' as their mission states. Best wishes for another 50 years of pride and success.●

INTERNATIONAL RESCUE COMMITTEE OF NEW YORK

● Mr. MOYNIHAN. Mr. President, today I am proud to note the accomplishments of the International Rescue Committee of New York.

This week the International Rescue Committee was awarded the Conrad N. Hilton Humanitarian Prize, in recognition of its relief and resettlement services to millions of refugees. In presenting the award to John C. Whitehead, chairman of the IRC Board, former President Jimmy Carter said, ''This year, the Hilton Foundation has fulfilled a vital need in bringing the refugee issue, one that is often overlooked or ignored, to the forefront by honoring the International Rescue Committee.''

The Conrad N. Hilton Foundation created the annual award to recognize outstanding efforts by the best American charitable organization engaged in combating ''famine, war, disease, human affliction and man's inhumanity to man.'' IRC was selected to receive the award by a prestigious international jury that included Dr. C. Everett Koop, former Surgeon General of the United States. It was accorded the Hilton Prize on the basis of its achievements in alleviating suffering, on the sustainability of its programs, and on the extent to which it reaches out and involves others in accomplishing its mission.

I want to congratulate the International Rescue Committee on its fine achievements and salute the Conrad N. Hilton Foundation for recognizing those efforts.●

CELEBRATION OF FLORIDA INTERNATIONAL UNIVERSITY'S SILVER ANNIVERSARY

● Mr. GRAHAM. Mr. President, this month the people of Florida join with faculty, staff, students, and more than 70,000 alumni in honoring Florida International University on its 25th anniversary. For the past quarter century, this outstanding institution's commitment to academic excellence and its constant celebration of diversity has enriched communities throughout Florida, the United States, and the entire world.

This milestone anniversary is particularly special to members of the Graham family. In 1943, State senator Ernest R. Graham—my father—introduced legislation to establish a public university in south Florida. Twenty-two years later, on May 26, 1965, the Florida State senate unanimously passed legislation to fulfill his vision. On September 19, 1972, Florida International University opened its doors for the first time.

That would have been a proud day for my father. When I was growing up in the Miami area, he used to tell my brothers, sister, and I that the best investment he ever made were his Dade County school taxes. He was proud, even enthusiastic, about paying those taxes because they enabled his children to get a strong education in the Dade County public school system. If he were alive today, my father would agree that the time and energy he put into laying the groundwork for a Florida International University was yet another wise educational investment.

After only a quarter-century in existence, FIU has already gained acclaim as one of the most academically challenging and culturally diverse universities in the entire United States. This distinction is a credit to Florida International University's hard-working staff, dedicated faculty, bright student body, loyal alumni, and especially the wise, dynamic leadership of FIU's four presidents—Charles Perry, Harold Crosby, Gregory Wolfe, and Modesto Maidique.

Each of these four outstanding individuals have contributed to Florida International University's popularity, prestige, and reputation. When Charles Perry took the reins of FIU in 1969, a full 3 years before the university opened, the campus was a run-down airport tower, old empty hangars, and 342 acres of land in west Dade County. His boundless energy and zeal for establishing an outstanding public university in south Florida led to the largest opening day enrollment of any university in American history. On September 19, 1972, nearly 6,000 students started classes at Florida International University.

Presidents Harold Crosby and Gregory Wolfe continued the outstanding work that president Perry had begun. President Crosby placed special emphasis on fulfilling the international vision espoused by FIU's founders, hiring faculty members from a number of foreign countries and establishing the multilingual, multicultural center. President Wolfe led Florida International through its critical transition from 2- to 4-year university.

For the last 10 years, Florida International University has had the good fortune to be guided by a dedicated, hard-working leader with an eye for excellence, a passion for education, a keen insight into bringing town and gown together in support of academic success, and a determination to make FIU second to none in preparing students for the United States' future in an increasingly international economy and society.

It might have been destiny that brought President Modesto ''Mitch'' Maidique to Florida International University. He has helped to mold FIU in his own image—president Maidique's own background contains the same ethnic and cultural diversity, financial savvy, and academic excellence that have come to characterize south Florida's preeminent public university.

The son of German-Czech emigrants who settled in Cuba during the early 1800's, president Maidique was born in Havana in 1940. At the end of his formal education, he had earned three degrees from the Massachusetts Institute of Technology—bachelor of science, master of science, doctor of electrical engineering—and another from the business program at MIT's Cambridge neighbor, Harvard University. By the time he assumed Florida International University's presidency in 1986, he had added professor and distinguished businessman to his résumé, teaching at prestigious institutions like Harvard and Stanford and lending his scientific knowledge and business know-how to several prominent firms.

Success followed president Maidique to Florida International. His decade of leadership has spurred a number of impressive academic, financial, and cultural achievements. In academics, U.S. News & World Report consistently ranks Florida International University as one of the top 150 national universities in the United States. Money magazine says that it is among America's best public commuter universities.

Perhaps Florida International University's greatest academic achievement is the fact that it so earnestly works to provide an outstanding education to all students, regardless of socioeconomic background. Thanks in part to low tuition rates, and to the work ethic and frugality of FIU administrators, faculty, and staff, its students are the fifth least indebted in the Nation. U.S. News & World Report rates it as one of the 10 best educational buys in the United States.

Finally, Florida International University is one of the most diverse colleges in the United States that is increasingly benefited by its ethnic diversity. For the last 25 years, it has been training young adults to live, work, and succeed in a world that speaks multiple languages and celebrates a variety of cultural achievements. More than half of its student body is Hispanic, and the university produces more Hispanic graduates than any other university in America. All in all, it has 70,000 alumni that represent all 50 States and more than 146 countries.

Mr. President, I join with all Floridians in congratulating president Modesto Maidique and every past and present member of the Florida International University community on its historic 25th anniversary. As the university prepares to begin its next quarter-century, its abiding commitment to academic excellence, affordability, and diversity is leading the United States into the 21st century.●

TRIBUTE TO LESLIE LORD AND SCOTT E. PHILLIPS

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the memories of two brave New Hampshire State Troopers killed in the line of duty. Leslie Lord, 45, of Pittsburg and Scott E. Phillips, 32, of Colebrook both bravely gave their lives trying to protect others and stop a man wielding an automatic rifle throughout the town of Colebrook, New Hampshire on August 19th. Vickie Bunnell, a Colebrook District Court judge, and Dennis Joos, editor of the Sentinel newspaper, were also innocent victims in the shooting spree.

Leslie Lord was a 1974 graduate of Pittsburg High School and the next year graduated in the 25th class at the New Hampshire Police Academy. Later, Lord became the chief of police in his hometown, until January 16, 1987, when he resigned to become a state highway enforcement officer. After working as a state highway truck inspector, Lord became a state trooper for the Granite state in 1996.

Lord, who was not only a husband to Beverly, was also a father to two teenage boys, Cory and Shawn.

Scott Phillips was a 1984 graduate of White Mountain Regional High School in Whitefield and also a veteran of the U.S. Army. He served with the military police, including a tour of duty in Panama. In 1990, as a member of the 90th class at the State Police Academy, Phillips graduated an impressive 14th in a class of 38.

Phillips lived in Colebrook with his dear wife, Christine, their young son, Keenan, 2½, and their 1-year-old daughter, Clancy.

Both Troopers Lord and Phillips were known as dedicated, hardworking, and well-liked individuals by members of their respective communities.

Mr. President, the state of New Hampshire as well as the families of these fine state troopers have suffered a tremendous loss. I would like to commend the efforts of both men, for their actions were nothing short of heroic. I would also like to extend to the families of not only Lord and Phillips, but also of Vickie Bunnell and Dennis Joos, my deepest heartfelt sorrow and I pray that God watches over them. The memories of Leslie Lord and Scott E. Phillips will live on in all of the lives they have touched, for they were two remarkable and beloved individuals.●

TRIBUTE TO CONRAD RICHARD GAGNON, JR. AND MAUREEN E. CONNELLY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Conrad Richard Gagnon, Jr. and Maureen E. Connelly who were named finalists in the second annual Samsung American Legion Scholarship Program.

The scholarship program is funded by a $5 million endowment from the Samsung Group, an international company based in South Korea, and is administered by the American Legion, the world's largest veterans organization. Only direct decedents of U.S. wartime veterans are eligible for the scholarships.

Conrad and Maureen are among many other outstanding young Americans named as finalists to compete for one of ten college scholarships, each worth $20,000. The students were judged on the basis of their involvement in their school and community, and for their academic achievements.

Conrad is a native of Bedford, New Hampshire and is currently in his senior year of high school. He is the son of Conrad and Gisele Gagnon, and has three bothers: Brian, Tim and Dan. His grandfather, Richard Adalard Gagnon, is a World War Two veteran.

Conrad has distinguished himself by achieving excellent grades, as well as being involved in numerous and varied actives. He is an associate editor of his school year book, a member of his school's math team, and French club. He has been awarded the Boy Scouts Order of the Arrow, and will travel to California and Japan this summer on the Sony Student Abroad scholarship. Conrad also participates in community service activities such as peer tutoring, food drives, and was involved in organizing an effort to place over one hundred of his peers in volunteer positions. He would like to study engineering and law in college.

Maureen is a resident of Greenland, New Hampshire. She attends Portsmouth High School. She is the daughter of Mark and Marian Connelly, and she has a sister Carolyn and a brother Steven. Her grandfather, Quentin Dante Halstead, served on active duty in World War Two, the Korean War, and the Vietnam War.

Maureen has earned outstanding grades in honors and advance placement classes. She is also very active on her school's field hockey team and track team. In addition she is a member of student government, serving in the capacity of treasure, as well as a member of the school newspaper staff. Maureen volunteers her time to teach young children field hockey, and she maintains a job as a lifeguard. She is a senior in high school and would like to be a doctor.

Young men and women such as CONRAD and Maureen are a valuable asset to New Hampshire and the future of the United States. I congratulate them on all their hard work and wish them success in their future endeavors.●

IN MEMORY OF CHAD WARREN

Mr. SMITH of New Hampshire. Mr. President, I rise today in memory of Chad Warren, a young, thoughtful and motivated man who recently passed away. Chad was only 25 years old when he unfortunately lost his life, only months away from his 26th birthday. He is an example to us all because of his sheer dedication to his job and his unconditional love for his family.

Working at the Goodhue Hawkins Navy Yard for the past six years, Chad became an invaluable employee and was also known as a friend to all. Hard working and dedicated are only mere words to epitomize Chad as a person. He started out as a boat washer and dockboy and soon progressed to a boat rigger and forklift operator He then achieved certification as a boat mechanic. Mr. President, I admire Chad not only for his dedication but also for the heart he put into his service at the Navy Yard.

Prior to his employment, Chad was in Steve Durgan's Junior High Geography and U.S. History classes at Kingswood Regional Junior/Senior High School. Steve, a close personal friend of mine, described Chad as quiet, shy and thoughtful.

At such a young age, Chad was surrounded by many close, loving people. Besides his mother, Linda Morrill of Wolfeboro, New Hampshire, and his father, Paul Warren of Ashburnham, Massachusetts, Chad leaves his dear wife Sherri Warren and their young beloved children Corbin, 5 years old, Shane, 8 years old, and Amber, 12 years old. Chad was blessed to have these valuable people in his life.

Mr. President, to lose any life is a sad event. But to lose a young life, one full of energy, life, hopes and dreams is a tragedy. My heart and prayers go out

to Chad's family and especially his wife, Sherri, and their children, Corbin, Shane, and Amber. The loss of a husband and father is irreplaceable but Chad's memory will always live on in those who loved him.●

TRIBUTE TO JEREMY CHARRON

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the memory of a bright, young police officer wrongfully killed while on duty. Officer Jeremy Charron, 24, of Concord, New Hampshire, was gunned down while checking on a report of a suspicious car during the early morning hours of August 24th.

Officer Charron embodied all that is honorable about our state's law enforcement professionals. His selfless devotion to protecting the lives of innocent New Hampshire citizens enabled him to perform the heroic acts for which he will always be remembered. It is not often that we see such strength, valor, and courage in a person. Jeremy Charron was unique and his family can be proud of his bravery in this tragedy.

Jeremy Charron was an All-American kid, a high school athlete, a natural leader, president of his senior class at Hillsborough-Deering High School, a U.S. Marine and a police officer.

Fulfilling his life long dream, Charron became a police officer for the town of Epsom, New Hampshire, in November, after completing the full-time police academy training and becoming certified as a full-time officer July 11.

Charron also served in the U.S. Marine Corps from July 1992 to June 1996, when he received an honorable discharge.

Born to Robert and Frances Charron, Jeremy leaves brothers Rob, 28, and Andrew, 27, and sisters, Amanda, 21, and Bethany, 12, and his finance, April LaRochelle.

Mr. President, the family of Jeremy Charron has suffered a great loss. The people of New Hampshire again have lost another fine officer. It is a time for faith and a time for healing. My prayers and sympathy go out to the families and friends of Officer Charron.●

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 2378

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, proceed to consideration of the conference report accompanying H.R. 2378, the Treasury-Postal Service appropriations bill. I further ask unanimous consent that the reading be waived and the conference report be limited to the following debate time:

The two managers, 15 minutes each;

Senator MCCAIN, up to 10 minutes;

Senator BROWNBACK, up to 10 minutes;

Senator WELLSTONE, up to 10 minutes.

I further ask unanimous consent that immediately following the expiration of time, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

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

U.S. DISTRICT COURTS ARBITRATION APPROPRIATIONS AUTHORIZATION ACT

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 996) to provide for the authorization of appropriations in each fiscal year for arbitration in U.S. district courts.

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

Resolved, That the bill from the Senate (S. 996) entitled ''An Act to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. ARBITRATION IN DISTRICT COURTS.

Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended in the first sentence by striking ''for each of the fiscal years 1994 through 1997'' and inserting ''for each fiscal year''.

SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''sections 471 through 478'' and inserting ''sections 472, 473, 474, 475, 477, and 478''; and

(3) by adding at the end the following new subparagraph:

''(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.''.

SEC. 3. EXTENSION OF CERTAIN TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note) is amended—

(1) by striking paragraph (1) and redesignating the succeeding paragraphs accordingly; and

(2) by striking the last 3 sentences and inserting the following: ''Except with respect to the western district of Michigan and the eastern district of Pennsylvania, the first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary judgeship created by this subsection, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled. The first vacancy in the office of district judge in the eastern district of Pennsylvania, occurring 5 years or more after the confirmation date of the judge named to the fill the temporary judgeship created for such district under this subsection, shall not be filled. For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeships created under this section.''.

SEC. 4. TRANSFER OF FEDERAL COURT JUDGESHIP.

The table contained in section 133(a) of title 28, United States Code, is amended by amending the item relating to Louisiana to read as follows:

''Louisiana:	
''Eastern	12
''Middle	3
''Western	7''.

Amend the title so as to read ''An Act to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts, and for other purposes.''.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House.

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

EXTENDING CERTAIN PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2472, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1270

(Purpose: To extend certain programs under the Energy Policy and Conservation Act and for other purposes)

Mr. LOTT. Mr. President, Senator MURKOWSKI has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for Mr. MURKOWSKI, proposes an amendment numbered 1270.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof:

''SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

''The Energy Policy and Conservation Act is amended—

''(1) in section 166 (42 U.S.C. 6246) by striking for 'fiscal year' and inserting in lieu thereof 'through October 31,';

''(2) in section 181 (42 U.S.C. 6251) by striking 'September 30' both places it appears and inserting in lieu thereof 'October 31'; and

''(3) in section 281 (42 U.S.C. 6285) by striking 'September 30' both places it appears and inserting in lieu thereof 'October 31'.''.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 1270) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as

amended; that 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.

The bill (H.R. 2472), as amended, was read the third time and passed.

PROVIDING FOR RELEASE OF REVERSIONARY INTEREST HELD BY THE UNITED STATES

Mr. LOTT. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 394 and, further, that the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 394) to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 394) was read the third time and passed.

HOOD BAY LAND EXCHANGE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 177, H.R. 1948.

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

The assistant legislative clerk read as follows:

A bill (H.R. 1948) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 1948) was read the third time and passed.

AUTHORIZING SUPPLEMENTAL EXPENDITURES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, which was reported by the Rules Committee today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 126) authorizing supplemental expenditures by the Committee on Veterans' Affairs.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 126) was agreed to, as follows:

S. RES. 126

Resolved, That section 18(b) of Senate Resolution 54, 105th Congress, agreed to February 13, 1997, is amended by striking out ''$1,123,430'' and inserting in lieu thereof ''$1,698,430''.

Mr. LOTT. I should note, Mr. President, that all these unanimous-consent requests have been discussed with and cleared by the minority leader's staff.

ORDERS FOR WEDNESDAY, OCTOBER 1, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, October 1. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin consideration of the Treasury-Postal Service appropriations conference report as agreed to under the previous consent agreement.

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

PROGRAM

Mr. LOTT. Mr. President, tomorrow morning, the Senate will begin 60 minutes of debate on the Treasury-Postal Service appropriations conference report. Senators can, therefore, expect rollcall votes Wednesday morning at approximately 11 a.m. or earlier if debate time is yielded back, and it could be yielded back, so the vote could be shortly before 11 o'clock. Following that vote, the Senate will resume consideration of the DC appropriations bill. It is the intention of the majority leader to finish action on the final appropriations measure. In observance of Rosh Hashanah, no recall call votes will occur after 1 p.m. tomorrow. Therefore, all Senators' cooperation will be appreciated in allowing the Senate to conclude action on the pending bill. I should note that we will continue to try to get an agreement to clear conference reports, and we probably will be in session until about 4 o'clock tomorrow afternoon, but there will be no recorded votes after 1 o'clock.

ADJOURNMENT UNTIL TOMORROW AT 10 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:28 p.m., adjourned until 10 a.m., Wednesday, October 1, 1997.

NOMINATIONS

Executive nominations received by the Senate September 30, 1997:

DEPARTMENT OF STATE

KATHRYN LINDA HAYCOCK PROFFITT, OF ARIZONA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

WILLIAM H. TWADDELL, OF RHODE ISLAND, 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 FEDERAL REPUBLIC OF NIGERIA.

Tuesday, September 30, 1997

Daily Digest

HIGHLIGHTS

Senate passed Continuing Appropriations and Energy and Water Appropriations Conference Report.

House agreed to the Conference Report on H.R. 2203, Energy and Water Development Appropriations for FY 1998.

House agreed to the Conference Report on H.R. 2378, Treasury, Postal Service Appropriations for FY 1998.

House passed H.R. 2267, Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations for FY 1998.

Senate

Chamber Action

Routine Proceedings, pages S10185–S10244

Measures Introduced: Five bills were introduced, as follows: S. 1237–1241. **Page S10229**

Measures Reported: Reports were made as follows:

Special Report entitled ''Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998''. (S. Rept. No. 105–91)

S. 750, to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, with an amendment in the nature of a substitute. (S. Rept. No. 105–92)

S. 1158, to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, with an amendment in the nature of a substitute. (S. Rept. No. 105–93)

H. Con. Res. 8, expressing the sense of Congress with respect to the significance of maintaining the health and stability of coral reef ecosystems, with an amendment in the nature of a substitute. (S. Rept. No. 105–94)

S. Res. 126, authorizing supplemental expenditures by the Committee on Veterans' Affairs. **Page S10229**

Measures Passed:

Continuing Appropriations: By a unanimous vote of 99 yeas (Vote No. 261), Senate passed H.J. Res. 94, making continuing appropriations for fiscal year 1998, clearing the measure for the President. **Page S10204**

Energy Policy and Conservation Extension: Senate passed H.R. 2472, to extend certain programs under the Energy Policy and Conservation Act, after agreeing to the following amendment proposed thereto: **Pages S10243–44**

Lott (for Murkowski) Amendment No. 1270, in the nature of a substitute. **Page S10243**

Michigan Land Transfer: Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of H.R. 394, to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan, and the bill was then passed, clearing the measure for the President. **Page S10244**

Hood Bay Land Exchange Act: Senate passed H.R. 1948, to provide for the exchange of lands within Admiralty Island National Monument, clearing the measure for the President. **Page S10244**

Committee Supplemental Funds: Senate agreed to S. Res. 126, authorizing supplemental expenditures by the Committee on Veterans' Affairs. **Page S10244**

District of Columbia Appropriations: Senate resumed consideration of S. 1156, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal

year ending September 30, 1998, taking action on amendments proposed thereto, as follows:

Pages S10185–S10204, S10208, S10211–16, S10222–25

Adopted:

Wyden Amendment No. 1250, to establish that it is the standing order of the Senate that a Senator who objects to a motion or matter shall disclose the objection in the Congressional Record.

Pages S10222–25

By 69 yeas to 27 nays, 1 answering present (Vote No. 263), Byrd Amendment No. 1267, to prohibit alcoholic beverage advertisements on billboards, signs, posters, and other forms of advertising in certain publicly visible locations in the District of Columbia where children are likely to walk to school or play. **Pages S10214–16, S10222**

By 69 yeas to 27 nays, 1 answering present (Vote No. 263), Byrd Amendment No. 1268, to increase the number of ABC inspectors in the District of Columbia and focus enforcement on sales to minors.

Pages S10214–16, S10222

By 69 yeas to 27 nays, 1 answering present (Vote No. 263), Byrd Amendment No. 1269, to require the General Accounting Office to study the effects of the low rate of taxation on alcohol in the District of Columbia. **Pages S10214–16, S10222**

Pending:

Coats Modified Amendment No. 1249, to provide scholarship assistance for District of Columbia elementary and secondary school students.

Pages S10185–96

Graham/Mack/Kennedy Amendment No. 1252, to provide relief to certain aliens who would otherwise be subject to removal from the United States.

Pages S10185, S10196–S10204

Mack/Graham/Kennedy Modified Amendment No. 1253 (to Amendment No. 1252), in the nature of a substitute. **Pages S10196–S10204**

Withdrawn:

Jeffords Amendment No. 1266, to provide for a regional education and workforce training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia.

Pages S10212–14

During consideration of this measure today, Senate also took the following action:

By 58 yeas to 41 nays (Vote No. 260), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate failed to agree to close further debate on Coats Modified Amendment No. 1249, listed above. **Pages S10195–96**

U.S. District Courts Arbitration: Senate concurred in the amendments of the House to S. 996, to provide for the authorization of appropriations in each fiscal year for arbitration in the United States district courts, clearing the measure for the President. **Page S10243**

Energy and Water Development Appropriations—Conference Report: By a unanimous vote of 99 yeas (Vote No. 262), Senate agreed to the conference report on H.R. 2203, making appropriations for energy and water development for the fiscal year ending September 30, 1998, clearing the measure for the President. **Pages S10217–22**

Department of the Treasury/Postal Service Appropriations Conference Report—Agreement: A unanimous-consent time-agreement was reached providing for the consideration of the conference report on H.R. 2378, 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, 1998, on Wednesday, October 1, 1997.

Page S10243

Messages from the President: Senate received the following messages from the President of the United States:

Transmitting the notice of the continuation of the Iran emergency; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–70).

Page S10227

Nominations Received: Senate received the following nominations:

Kathryn Linda Haycock Proffitt, of Arizona, to be Ambassador to the Republic of Malta.

William H. Twaddell, of Rhode Island, to be Ambassador to the Federal Republic of Nigeria.

Page S10244

Messages From the President: **Page S10227**

Messages From the House: **Pages S10227–28**

Measures Referred: **Page S10228**

Communications: **Pages S10228–29**

Statements on Introduced Bills: **Pages S10229–33**

Additional Cosponsors: **Pages S10233–34**

Amendments Submitted: **Pages S10234–38**

Notices of Hearings: **Page S10239**

Authority for Committees: **Page S10239**

Additional Statements: **Pages S10239–43**

Record Votes: Four record votes were taken today. (Total—263) **Pages S10195–96, S10204, S10222**

Adjournment: Senate convened at 10 a.m., and adjourned at 7:28 p.m., until 10 a.m., on Wednesday, October 1, 1997. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S10244.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings on the nominations of Laura S. Unger, of New York, and Paul R. Carey, of New York, each to be a Member of the Securities and Exchange Commission, Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board, Edward M. Gramlich, of Virginia, and Roger Walton Ferguson, of Massachusetts, each to be a Member of the Board of Governors of the Federal Reserve System, and Ellen Seidman, of the District of Columbia, to be Director of the Office of Thrift Supervision, Department of the Treasury, after the nominees testified and answered questions in their own behalf. Mr. Dollar was introduced by Senators Lott and Cochran.

NOMINATIONS

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nominations of Michael K. Powell, of Virginia, Harold W. Furchtgott-Roth, of the District of Columbia, and Gloria Tristani, of New Mexico, each to be a Member of the Federal Communications Commission, after the nominees testified and answered questions in their own behalf. Mr. Furchtgott-Roth was introduced by Senator Thurmond and Representative Bliley, Mr. Powell was introduced by Senators Warner and Robb, and Ms. Tristani was introduced by Senators Domenici and Bingaman.

FAST TRACK TRADE AUTHORITY

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the Administration's proposal to renew fast track trade negotiating authority, after receiving testimony from William M. Daley, Secretary of Commerce; and Charlene Barshefsky, United States Trade Representative.

CLIMATE CHANGE POLICY

Committee on Energy and Natural Resources: Committee concluded oversight hearings to examine the economic impact and analysis of a proposed climate change treaty on labor, electricity supply, and manufacturing, after receiving testimony from Cecil E. Roberts, United Mine Workers of America, and William A. Niskanen, Cato Institute, both of Washington, D.C.; Murray Weidenbaum, Washington University, St. Louis, Missouri; Ronald L. McMahan, Resource Data International, Inc. and Financial Times Energy, Boulder, Colorado; Richard Sandor, Centre Financial Products Limited, Chicago, Illinois; and Irving Mintzer, Global Business Network, Silver Spring, Maryland.

AUTHORIZATION—ENDANGERED SPECIES

Committee on Environment and Public Works: Committee ordered favorably reported S. 1180, authorizing funds for programs of the Endangered Species Act, with amendments.

CAMPAIGN FINANCING INVESTIGATION

Committee on Governmental Affairs: Committee resumed hearings to examine certain matters with regard to the committee's special investigation on campaign financing, receiving testimony from former Vice President Walter F. Mondale; and former Senator Kassebaum.

Hearings continue on Tuesday, October 7.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Raymond C. Fisher, of California, to be Associate Attorney General, Department of Justice, Ronald Lee Gilman, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Sonia Sotomayor, of New York, to be United States Circuit Judge for the Second Circuit, Richard Conway Casey, to be United States District Judge for the Southern District of New York, James S. Gwin, to be United States District Judge for the Northern District of Ohio, Dale A. Kimball, to be United States District Judge for the District of Utah, Algenon L. Marbley, to be United States District Judge for the Southern District of Ohio, and Charles J. Siragusa, to be United States District Judge for the Western District of New York, after the nominees testified and answered questions in their own behalf. Mr. Fisher was introduced by Representatives Campbell and Berman, Mr. Gilman was introduced by Senators Thompson and Frist and Representative Ford, Ms. Sotomayor, and Messrs. Casey and Siragusa were introduced by Senator D'Amato, Messrs. Gwin and Marbley were introduced by Senators DeWine and Glenn, and Mr. Kimball was introduced by Senators Hatch and Bennett.

UNCONSTITUTIONAL SET-ASIDES

Committee on the Judiciary: Subcommittee on the Constitution, Federalism, and Property Rights concluded hearings to examine the use of racial and ethnic preferences in federal procurement programs, focusing on the constitutionality of Department of Transportation proposed regulations to modify the Disadvantaged Business Enterprise program for highway and transit projects, and a related Supreme Court decision in *Adarand* v. *Pena*, after receiving testimony from Senator McConnell; Representatives Scott and

Canady; Nancy E. McFadden, General Counsel, Department of Transportation; Valery J. Pech, Adarand Constructors, Inc., Colorado Springs, Colorado; Janet Schutt, Schutt-Lookabill Contractors, Indianapolis, Indiana; George R. LaNoue, University of Maryland Graduate School, Baltimore; Eugene Volokh, UCLA Law School, Los Angeles, California; and Mark Tushnet, Georgetown University Law Center, and Michael Carvin, Cooper & Carvin, both of Washington, D.C.

GLOBAL TOBACCO SETTLEMENT

Committee on Labor and Human Resources: Committee resumed hearings to examine the scope and depth of the proposed settlement between State Attorneys General and tobacco companies to mandate a total reformation and restructuring of how tobacco products are manufactured, marketed, and distributed in America, focusing on the need to prevent young people from using tobacco products and other public health goals, receiving testimony from Louis W. Sullivan, Morehouse School of Medicine, Atlanta, Georgia, former Secretary of Health and Human Services; Ronald M. Davis, Center for Health Promotion and Disease Prevention/Henry Ford Health System, Detroit, Michigan, former Director, Office on Smoking and Health, Centers for Disease Control, Department of Health and Human Services; Washington State Attorney General Christine O. Gregoire, Olympia, on behalf of State Attorneys General; David S. Rosenthal, Harvard University Medical School, on behalf of the American Cancer Society, and Gregory N. Connolly, Massachusetts Department of Public Health, both of Boston, Massachusetts; and Stanley M. Chesley, Waite, Schneider, Bayless & Chesley Co., Cincinnati, Ohio, on behalf of the Castano Plaintiffs Litigation Committee.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 11 public bills, H.R. 2578–2588; and 2 resolutions, H. Con. Res. 161–162, were introduced. **Pages H8264–65**

Reports Filed: Reports were filed today as follows:

H.R. 1839, to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, amended (H. Rept. 105–285 part 1);

Revised Subdivision of Budget Totals for Fiscal Year (H. Rept. 105–286). **Page H8264**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Thune to act as Speaker pro tempore for today. **Page H8163**

Journal Vote: By a yea-and-nay vote of 360 yeas to 56 nays, Roll No. 466, agreed to the Speaker's approval of the Journal of Monday, September 29. **Pages H8165–66, H8170–71**

Recess: The House recessed at 9:24 a.m. and reconvened at 10:00 a.m. **Page H8165**

Motion to Adjourn: Rejected the Velazquez motion to adjourn by a yea-and-nay vote of 132 yeas to 285 nays, Roll No. 465. **Page H8170**

Energy and Water Development Conference Report: By a yea and nay vote of 404 yeas to 17 nays, Roll No. 468, the House agreed to the conference report on H.R. 2203, making appropriations for energy and water development for the fiscal year ending September 30, 1998. **Pages H8173–84**

Earlier, agreed to H. Res. 254, the rule waiving points of order against the conference report by a yea and nay vote of 415 yeas to 3 nays, Roll No. 467. **Pages H8171–72**

Export-Import Bank Reauthorization: The House completed general debate and began considering amendments to H.R. 1370, to reauthorize the Export-Import Bank of the United States. Consideration will resume at a later date. **Pages H8188–H8207**

Agreed To:

The Evans amendment that directs the Export-Import Bank to give preference to U.S. firms seeking assistance for activities in China to those that have adopted and adhered to a code of conduct for their international operations (agreed to by a recorded vote of 241 ayes to 182 noes, Roll No. 472); **Pages H8200–02, H8204–05**

The LaFalce amendment that renames the Export-Import Bank as the ''American Export Bank'' (agreed to by a recorded vote of 362 ayes to 56 noes, Roll No. 473). **Pages H8205–07**

Rejected:

The Frank of Massachusetts amendment that sought to require community work requirements for members of Boards of Directors of firms receiving assistance from the Export-Import Bank. **Pages H8202–03**

Rejected the McDermott motion to rise by a recorded vote of 128 ayes to 291 noes, Roll No. 470; and **Pages H8199–H8200**

Rejected the DeLauro motion to rise by a recorded vote of 162 ayes to 257 noes, Roll No. 471. **Pages H8203–04**

Agreed to H. Res. 255, the rule that is providing for consideration of the bill. Earlier, agreed to order the previous question by a yea and nay vote of 423 yeas to 3 nays, Roll No. 469. **Pages H8184–88**

Treasury, Postal Service Appropriations: By a yea and nay vote of 220 yeas to 207 nays, Roll No. 474, the House agreed to the Conference Report on H.R. 2378, 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, 1998. **Pages H8207–16**

Presidential Message—National Emergency Re Iran: Read a message from the President wherein he transmitted his report concerning the national emergency with respect to Iran—referred to the Committee on International Relations and ordered printed (H. Doc. 105–137). **Page H8216**

Commerce, Justice, State, and Judiciary Appropriations: By a yea and nay vote of 227 yeas to 199 nays, Roll No. 476, the House passed H.R. 2267, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998. The House completed general debate and considered amendments to the bill on September 24, 25 and 26. **Pages H8216–44**

Rejected the Bonior motion to recommit the bill to the Committee on Appropriations. **Pages H8243–44**

On demand for a separate vote, agreed to the Hyde amendment that allows any defendant who prevails in a federal prosecution an opportunity to recover attorney fees unless the government establishes that it was substantially justified in initiating and prosecuting the case, by a voice vote. The amendment was agreed to in the Committee of the Whole on September 25 by a recorded vote of 340 ayes to 84 noes, Roll No. 443. **Page H8243**

Rejected:

The Mollohan amendment that sought to retain the full $381.8 million appropriated for Census 2000; strike committee-reported language fencing all but $100 million until enactment of authorizing legislation and prohibit the use of the un-fenced $100 million for activities relating to sampling; prohibit the use of any 1998 funds to make irreversible plans for the use of sampling or other statistical method in taking the census for purposes of congressional apportionment; and create a board of observers for a fair and accurate census (rejected by a recorded vote of 197 ayes to 228 noes, Roll No. 475). **Pages H8217–39**

On September 24, agreed to H. Res. 239, the rule that is providing for consideration of the bill. **Pages H7755–59**

Subpoena Enforcement In The Case of Dornan v. Sanchez: By a yea and nay vote of 219 yeas to 203 nays with 1 voting ''present'', Roll No. 478, the House agreed to H. Res. 244, as amended pursuant to the rule, demanding that the Office of the United States Attorney for the Central District of California file criminal charges against Hermandad Mexicana Nacional for failure to comply with a valid subpoena under the Federal Contested Elections Act. **Pages H8253–62**

Agreed to H. Res. 253, the rule that provided for consideration of the resolution by a yea and nay vote of 221 yeas to 202 nays with 1 voting ''present'', Roll No. 477. Earlier, agreed by unanimous consent to amend the rule. **Pages H8244–53**

Motion to Adjourn: Agreed to the Scarborough motion to adjourn by a yea and nay vote of 206 yeas to 183 nays, Roll No. 479. **Page H8262**

Suspensions: On Monday, September 29, the House agreed to suspend the rules and pass the following bills by voice vote:

Clint and Fabens, Texas Independent School Districts Conveyance: H.R. 1116, to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District. **Page H8063**

Child Support Incentive Act: H.R. 2487, amended, to improve the effectiveness and efficiency of the child support enforcement program and thereby increase the financial stability of single parent families including those attempting to leave welfare. **Page H8084**

Senate Messages: Messages received from the Senate today appear on pages H8166, H8200, and H8229.

Referrals: S. 459, to amend the Native American Programs Act of 1974 to extend certain authorizations, was referred to the committee on Resources. **Page H8263**

Quorum Calls—Votes: Ten yea-and-nay votes and five recorded votes developed during the proceedings of the House today and appear on pages H8170, H8170–71, H8172, H8183, H8188, H8199–H8200, H8203–04, H8204–05, H8206–07, H8215–16, H8238–39, H8243–44, H8252–53, H8261–62, and H8262–63. There were no quorum calls.

Adjournment: Met at 9:00 a.m. and adjourned at 12:34 a.m. on Wednesday, October 1.

Committee Meetings

OPM's REPORT ON IMPROPER HIRING PRACTICES AT NCUA

Committee on Banking and Financial Services: Subcommittee on General Oversight and Investigations held a hearing to review OPM's Report on Improper Hiring Practices at the National Credit Union Administration. Testimony was heard from Janice Lachance, Acting Director, OPM; and the following officials of the National Credit Union Administration: Norman D'Amours, Chairman; Shirlee Bowne, Vice-Chairman; and Yolanda Wheat, Board Member.

OVERVIEW—NIH PROGRAMS

Committee on Commerce: Subcommittee on Health and Environment held a hearing on an Overview of National Institutes of Health Programs. Testimony was heard from the following officials of the NIH, Department of Health and Human Services: Harold E. Varmus, M.D., Director; Francis Collins, M.D., Director, National Human Genome Research Institute; Donald Lindberg, M.D., Director, National Library of Medicine; David Lipman, M.D., National Library of Medicine; Richard Hodes, M.D., Director, National Institutes of Aging; Zach Hall, M.D., Director, National Institute of Neurological Disorders and Stroke; and Anthony S. Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT

Committee on Commerce: Subcommittee on Telecommunications, Trade, and Consumer Protection held a hearing on H.R. 1872, Communications Satellite Competition and Privatization Act of 1997. Testimony was heard from Regina M. Keeney, International Bureau Chief, FCC; Jack A. Gleason, Associate Administrator, International Affairs, National Telecommunications and Information Administration, Department of Commerce; and public witnesses.

PUBLIC AND PRIVATE SCHOOL CHOICE

Committee on Education and the Workforce: Subcommittee on Early Childhood, Youth and Families held a hearing on Public and Private School Choice. Testimony was heard from public witnesses.

REVIEW—FEDERAL EMPLOYEES COMPENSATION ACT

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing to Review the Federal Employees Compensation Act (FECA). Testimony was heard from the following officials of the Department of Labor: Shelby Hallmark, Acting Assistant Secretary, Office of Worker's Compensation Programs; and Charles Masten, Inspector General; and Mike Brostek, Associate Director, Federal Management and Workforce Issues, GAO.

MISCELLANEOUS MEASURES

Committee on Government Reform and Oversight: Ordered reported amended the following bills: H.R. 404, to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local governments of certain surplus property for use for law enforcement or public safety purposes; and H.R. 1962, Presidential and Executive Office Financial Accountability Act of 1997.

MISCELLANEOUS MEASURES

Committee on International Relations: Ordered reported amended H.R. 2386, United States-Taiwan Anti-Ballistic Missile Defense Cooperation Act.

The Committee also reconsidered its earlier action and ordered reported amended H.R. 967, to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and be excluded from admission to the United States

ADMINISTRATION'S POLICY TOWARD ASIA

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on the Administration's Policy Toward Asia. Testimony was heard from Stanley Roth, Assistant Secretary, East Asian and Pacific Affairs, Department of State.

OVERSIGHT—SEEKING RESULTS FROM JUSTICE DEPARTMENT

Committee on the Judiciary: Held an oversight hearing on Seeking Results from the Department of Justice. Testimony was heard from Norman J. Rabkin, Director, Administration of Justice Issues, General Government Division, GAO; and Stephen R. Colgate, Assistant Attorney General, Administration, Justice Management Division, Department of Justice.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property approved for full Committee action the following: H.R. 1534, amended, Private Property Rights Implementation Act of 1997; H.R. 1967, to amend title 17, United States Code, to provide that the distribution before January 1, 1978, of a phonorecord shall not for any purpose

constitute a publication of the musical work embodied therein; H.R. 2265, amended, No Electronic Theft (NET) Act; and the Copyright Term Extension Act.

OVERSIGHT

Committee on Resources: Held an oversight hearing on issues surrounding use of fire as a management tool and its risks and benefits as they relate to the health of the National Forests and the EPA's National Ambient Air Quality Standards. Testimony was heard from Bruce Babbitt, Secretary of the Interior; Dan Glickman, Secretary of Agriculture; Carol M. Browner, Administrator, EPA; and public witnesses.

OVERSIGHT—BLM'S GRAZING REDUCTIONS

Committee on Resources: Subcommittee on National Parks and Public Lands held an oversight hearing on Grazing Reductions and other issues on BLM lands. Testimony was heard from Maitland Sharpe, Assistant Director, Renewable Resources and Planning, Department of the Interior; and public witnesses.

DOMAIN NAME SYSTEM

Committee on Science: Subcommittee on Basic Research continued hearings on Domain Name System (Part 2). Testimony was heard from public witnesses.

FAA'S EFFORTS TO CLOSE FLIGHT SERVICE STATIONS

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on FAA's efforts to close and consolidate flight service stations and to consider H.R. 1454, to prohibit the Administrator of the Federal Aviation Administration from closing certain flight service stations. Testimony was heard from Representative Riggs; Ronald E. Morgan, Director, Air Traffic, FAA, Department of Transportation; Nancy Flemming, Mayor, Eureka, California; and public witnesses.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Ordered reported the following bills: H.R. 1703, amended, Department of Veterans Affairs Employment Discrimination Prevention Act; and H.R. 2571, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998.

FAST TRACK TRADE AUTHORITY

Committee on Ways and Means: Subcommittee on Trade held a hearing on the implementation of Fast Track Trade Authority. Testimony was heard from Representatives Gephardt, Kolbe, Visclosky, Blumenauer, Dooley of California and Moran of Virginia; Charlene Barshefsky, U.S. Trade Representative; and public witnesses.

GULFLINK BRIEFING

Permanent Select Committee on Intelligence: Meet in executive session to hold a briefing on Gulflink. The Committee was briefed by departmental witnesses.

Joint Meetings

APPROPRIATIONS—TREASURY/POSTAL SERVICE

Conferees on Monday, September 29, agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 2378, 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, 1998.

APPROPRIATIONS—INTERIOR

Conferees continued in evening session to resolve the differences between the Senate- and House-passed versions of H.R. 2107, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998.

APPROPRIATIONS—VA/HUD

Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 2158, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998.

AUTHORIZATION—FOREIGN ASSISTANCE

Conferees continued to resolve the differences between the Senate- and House-passed versions of H.R. 1757, to consolidate international affairs agencies, and to authorize funds for the Department of State and related agencies for fiscal years 1998 and 1999, but did not complete action thereon, and recessed subject to call.

COMMITTEE MEETINGS FOR WEDNESDAY, OCTOBER 1, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine the results of a nationwide study by the National Cancer Institute of radioactive fallout from nuclear testing in the 1950s, 9 a.m., SD–192.

Committee on Armed Services, to hold hearings on the nomination of Jacques S. Gansler, of Virginia, to be Under Secretary of Defense for Acquisition and Technology, 10 a.m., SR–222.

Committee on Commerce, Science, and Transportation, to hold hearings on the nomination of William E. Kennard,

of California, to be a Member of the Federal Communications Commission, 9 a.m., SR–253.

Committee on Energy and Natural Resources, Subcommittee on National Parks, Historic Preservation, and Recreation, to hold hearings on S. 940, to provide for a study of the establishment of Midway Atoll as a national memorial to the Battle of Midway, and H.R. 765, to ensure maintenance of a herd of wild horses in Cape Lookout National Seashore, 2 p.m., SD–366.

Committee on Finance, business meeting, to mark up proposed legislation relating to tax provisions for the Intermodal Surface Transportation Act of 1997, proposed legislation providing fast track trade negotiating authority, and proposed legislation providing special tariff treatment for certain Caribbean Basin countries, 10 a.m., SD–215.

Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs, to hold hearings to examine recent events in Algeria, 10 a.m., SD–419.

Committee on the Judiciary, to hold hearings to examine Congress' constitutional role in protecting religious liberty, 10 a.m., SD–226.

Committee on Labor and Human Resources, to hold hearings to examine voluntary initiatives to expand health insurance coverage, 10 a.m., SD- 430.

Committee on Rules and Administration, closed business meeting, concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996, 10 a.m., SR–301.

Select Committee on Intelligence, to hold hearings on the nomination of Lt. Gen. John A. Gordon, USAF, to be Deputy Director of Central Intelligence, 2 p.m., SD–106.

House

Committee on Agriculture, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, hearing to review the USDA's Government Performance and Results Act statement, 10 a.m., 1300 Longworth.

Committee on Banking and Financial Services, Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, hearing on Financial Accounting Standard's Board (FASB) accounting rules for derivatives, 10 a.m., 2128 Rayburn.

Subcommittee on Domestic and International Monetary Policy, hearing on Printing Flaws on the Redesigned $50 Bills, 1 p.m., 2222 Rayburn.

Committee on Commerce, Subcommittee on Health and Environment and the Subcommittee on Oversight and Investigations, joint hearing on the Implementation of the Clean Air Act National Ambient Air Quality Standards (NAAQS) Revisions for Ozone and Particulate Matter, 10 a.m., 2123 Rayburn.

Committee on Education and the Workforce, to markup H.R. 2535, Emergency Student Loan Consolidation Act of 1997, 10:30 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Civil Service, hearing on ''Contracting Out—Successes and Failures,'' 10:30 a.m., 2154 Rayburn.

Committee on International Relations, hearing on the Threat from International Organized Crime and Global Terrorism, 10 a.m., 2172 Rayburn.

Subcommittee on Africa, to markup H. Con. Res. 130, concerning the situation in Kenya; to be followed by a hearing on the Africa Crisis Response Initiative, 1 p.m., 2255 Rayburn.

Committee on the Judiciary, Subcommittee on Crime, oversight hearing on marijuana referenda movement in America, 9:30 a.m., 2141 Rayburn.

Committee on National Security, Subcommittee on Military Personnel, hearing on the Department of the Army reports on and corrective actions related to recent cases of sexual misconduct and related matters, 9:30 a.m., 2118 Rayburn.

Subcommittee on Military Research and Development, hearing on security of Russian nuclear weapons, 2 p.m., 2118 Rayburn.

Committee on Resources, to consider the following measures: H. Con. Res. 151, expressing the sense of the Congress that the United States should manage its public domain National Forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives and that the United States should serve as an example and as a world leader in actively managing its public domain national forests in a manner that substantially reduces the amount of carbon dioxide added to the atmosphere; H.R. 1567, Eastern Wilderness Act; H.R. 1856, Volunteers for Wildlife Act of 1997; H.R. 2000, to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions; H.R. 2259, King Cove Health and Safety Act of 1997; and H.R. 2402, Water-Related Technical Corrections Act of 1997, 11 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Space and Aeronautics, hearing on Space Shuttle Safety, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on allegations of cost overruns and delays in the FAA's wide area augmentation system (WAAS), 9:30 a.m., 2167 Rayburn.

Committee on Ways and Means, to markup H.R. 2195, Laogai Slave Labor Products Act of 1997, 1 p.m., 1100 Longworth.

Next meeting of the SENATE

10 a.m., Wednesday, October 1

Senate Chamber

Program for Wednesday: Senate will consider the conference report on H.R. 2378, Treasury/Postal Service Appropriations, 1998, with a vote to occur thereon, and resume consideration of S. 1156, D.C. Appropriations, 1998.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, October 1

House Chamber

Program for Wednesday: Consideration of a motion to instruct conferees on H.R. 1757, State Department Authorization Act;

Vote on 14 suspensions postponed from Monday, September 29, and

Consideration of H.R. 1127, National Monument Fairness Act of 1997 (modified closed rule, 1 hour of debate).

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