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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 22, 1997.

I hereby designate the Honorable VINCE SNOWBARGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

With grateful hearts we laud and praise every person who uses the talents and abilities You have given, O God, in ways that promote justice and serve the common good.

May Your good blessing, O God, be with the men and women who serve in this place and encourage them along the way. Give them vision to see the way of justice, give them grace to withstand all the pressures of the day, and give them patience and understanding to demonstrate the spirit of unity in their words and in their actions.

Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California [Ms. SANCHEZ] come forward and lead the House in the Pledge of Allegiance.

Ms. SANCHEZ 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.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

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

Mr. SHIMKUS. Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act. Allowing property owners their day in court to defend their constitutional rights should be an easy vote. Why should property owners face enormously expensive hurdles in attempting to defend their Federal rights in court?

Some opponents of the bill are now standing as defenders of federalism and local decisionmaking. I hope their faith in State and local officials and their ability to make responsible decisions carries over to future discussions about block granting various Federal programs.

The fact is that H.R. 1534 does not impose any new limit on the ability of local governments to make decisions affecting zoning or any other land use controls. Those limits are imposed by the Constitution, not H.R. 1534. H.R. 1534 simply allows an individual who feels their fifth amendment rights have been violated the opportunity to have the facts of their case heard without fighting bureaucratic hurdles for years.

Mr. Speaker, I urge a ''yes'' vote on H.R. 1534.

CONGRESS SHOULD NOT GIVE UP ON PUBLIC SCHOOLS

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

Mr. PALLONE. Mr. Speaker, just two weeks ago Speaker GINGRICH forced this House to pass a publicly-financed private school voucher program in the D.C. appropriations bill. This provision initially failed to pass the House, but the Speaker held the vote open and basically twisted his fellow Republicans' arms to change their vote.

In spite of this near failure, Speaker GINGRICH will take another step at cutting public education. He will bring to the floor this week another bill to pour taxpayer dollars into private and religious schools. It is called an education savings account, but would primarily benefit wealthy families.

Democrats have an alternative that would use the money for school construction bonds to help public schools that are in disrepair or in need of new construction.

Mr. Speaker, let us improve public education rather than siphon Federal dollars for private schools. Mr. Speaker, I urge my colleagues: Do not give up on the public schools.

FOR EFFECTIVE EDUCATION PARENTS SHOULD BE IN CONTROL

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from New Jersey [Mr. PALLONE] and let me simply, gently correct the gentleman.

The proposed legislation we will bring to the floor of the House will help every American family by empowering every parent with the choice of how best to educate their child, whether in

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public schools or in an alternative setting.

Also, the bill we will bring to the House with a tax-free, interest-bearing account will allow those parents of children with special needs to have the ability to find a way to educate their children and, moreover, there will be no time limit on those children with special needs because we understand full well the challenges they will face, the special needs they have.

Mr. Speaker, what this bill does instead is allow parents the dignity to decide how best to educate their children, free from the Washington bureaucrats and the notion of centralized planning. It is as elementary as ABC.

Mr. Speaker, for an effective education, parents need to be in control.

$13,000 TOILETS BUILT BY PARK SERVICE

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

Mr. TRAFICANT. Mr. Speaker, the U.S. Park Service built a $500,000 outhouse. That is right. This Taj Mahal has a slate roof, a porch, and a cobblestone foundation. The paint cost $80 a gallon. The wildflower seed was $720 a pound.

Unbelievable. To boot, it is earthquake proof, able to withstand the shock of 6.5 on the Richter, either from without or within.

Mr. Speaker, if that is not enough to warm your globe, there is no running water and the special high-technology self-composting toilets cost $13,000 each. The Park Service said, ''We tried to cut costs desperately.''

Mr. Speaker, I have a suggestion. Why do they not cut those $13,000 toilets in half to better accommodate all those half-passed bureaucrats at the U.S. Park Service?

DANGERS OF TRANSPORTING NUCLEAR WASTE

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

Mr. GIBBONS. Mr. Speaker, in the upcoming debate over H.R. 1270, many of my colleagues will make the unfortunate statement that the shipment of the world's most deadly material, nuclear waste, is safe. That is wrong. It is absolutely and totally wrong.

The Sandia National Laboratories found that terrorists using a small amount of military explosives could blow just a 6-inch hole in a container, releasing 2,000 to 10,000 curies, a deadly amount of radiation.

Furthermore, a 1985 Department of Energy contractor report stated that the release of only 1,380 curies could be sufficient to contaminate, get this, 42 square miles, an area that could take up to 460 days to clean up at a price tag for the taxpayers of more than $620 million.

Mr. Speaker, another DOE contractor estimated that that could cost up to $19.4 billion, that is with a B, billion, to clean up.

Mr. Speaker, we are aware of the real threat of terrorism and accidents in this country. I say to my colleagues, if it could happen in their district, there is no reason to transport nuclear waste.

Mr. Speaker, I urge my colleagues to vote ''no'' on H.R. 1270.

SAY NO TO FAST TRACK

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

Mr. DEFAZIO. Mr. Speaker, those of lesser intellect might question the wisdom and efficacy of our trade policy. After all, our deficit rose last month. In fact, the $10.4 billion deficit in August was the worst in 7 months. We are headed toward a $114 billion budget deficit this year, eclipsing last year's record of $111 billion.

Mr. Speaker, we are headed toward an all-time high deficit with China and our deficit with our NAFTA, free-trade partners increased once again. There was only one spot on the horizon that looked a little dark. We are actually running a surplus, a trade surplus with Central and South America. Imagine that. That is against the principles of free trade.

But do not worry, Mr. Speaker. This administration and the Republican leaders want to fix that. They want to jam through a fast track trade agreement so we can have free trade and the same principles with Central and South America that we do with the rest of the world. That means trade deficits for the United States, job exports for the United States, and disaster for the American workers.

Mr. Speaker, I urge my colleagues to say no to fast track and let us get a real trade policy that makes sense for American workers in this country.

TIME IS NOW FOR CAMPAIGN FINANCE REFORM

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

Mr. HUTCHINSON. Mr. Speaker, with the failure of the Senate to address the problem of campaign finance reform, the spotlight has returned to the House to create momentum for this effort.

As a conservative editor, Bill Kristol, recently suggested, there is a conservative grassroots hostility to the massive soft money donations and the apparent influence such donations buy for big businesses and unions.

Mr. Speaker, we must not let the American people down and shuffle aside reform. Do not forget that unlike the Senate, we must face the voters next year. To oppose this reform effort is not only bad policy, but it is bad politics.

In 1992, the voters abandoned the Republican and Democratic Parties in significant numbers, attracted by the reform platform of Ross Perot, who understood that the people are tired of the Washington status quo.

Mr. Speaker, we cannot surrender control of Congress to the multinational corporations and unions, which pump millions of dollars of soft money into the system. We must return power and influence to the grassroots, to the people who sent us here.

Mr. Speaker, as a conservative, I came to Washington with just such an agenda; to return authority to the people back home. To abandon that reform would be to abandon that effort. I cannot do so.

''RADICAL REPUBLICANS'' NOT A MODERN MONIKER

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

Mr. TIAHRT. Mr. Speaker, often, very often, we have heard the Republicans and their ideas called derogatory names, names like ''extremist,'' ''far right,'' ''radical,'' ''radical Republicans.'' But this is not the first such occasion this has happened.

In fact, Mr. Speaker, it was about 130 years ago when in this very room the defenders of the status quo called a group of Republicans radical. During Reconstruction, it was radical Republicans who were criticized 130 years ago.

So what were these radical ideas 130 years ago that caused the radical Republicans to be so chastised by their critics? It was full citizenship for black Americans, not just abolishment of slavery, full voting rights, owning of property, full citizenship. Now it is commonly accepted here in America.

So, Mr. Speaker, when we hear today's radical Republican ideas like scrapping the IRS Tax Code, like school vouchers and competition, like regulation reform and individual responsibility, remember the critics of radical Republicans not long ago. It is not new; it is just the entry fee for the bright future of our country.

CONGRATULATIONS TO DEBORAH TAMARGO, WINNER IN FLORIDA DISTRICT 58 ELECTION

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

Mr. WELDON of Florida. Mr. Speaker, yesterday in Florida we had a special election in Florida State House District 58. The incumbent Democrat, Elvin Martinez, had retired to take a judgeship.

Mr. Speaker, I rise today to congratulate Republican Deborah Tamargo, the new State Representative from District 58. This now moves

the Republican majority in the State House of Florida to 65 versus 55.

Mr. Speaker, as most people know, 1996 was the year for the first time since Reconstruction that the Republican Party had taken the State House in Florida, and now the State House majority is 65. My congratulations go out to Deborah and to all the Republicans who got involved in that race.

Mr. Speaker, I would like to read a quote from Tom Slade where he said, ''Perhaps a key moment came in the endorsement of Martinez,'' the Democrat, ''by one of the local editorial boards.'' The endorsement favored the Democrat in the race because of her willingness to raise taxes.

Mr. Speaker, Deborah Tamargo won on Republican principles of less taxes and less government.

□ 1015

IRS REFORM: WELCOME ABOARD, MR. PRESIDENT

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

Mr. ROGAN. Mr. Speaker, during the congressional recess I was back home meeting with constituents at townhall meetings. A recurring frustration expressed to me was, ''you Republicans are the ones that proposed tax cuts, and you got them through; the President, who opposed them all along the way, now is taking credit for it. You Republicans proposed balancing the budget; the President opposed it all along the way, and now he is taking credit for it.''

I always smile at such comments, because I view it as proof that the Republican agenda and ideals are winning.

Now, with IRS reform at the top of our agenda, we Republicans have pledged to the people of this country that we are going to overhaul from top to bottom the way the IRS conducts business. We are going to simplify the Tax Code, and make what is left of the IRS accountable to taxpayers. Since we made this proposal, the President and his advisers said they were going to oppose us. They defended the IRS and claimed it was running satisfactorily now.

Lo and behold, today, I picked up the Los Angeles Times. The front page story reports that ''after weeks of vehement opposition,'' the President ''has made an abrupt reversal'' and is now supporting our call for IRS reform.

Mr. Speaker, I have no doubt that in the near future the President will forget his original position, and will be taking full credit for our IRS proposals, too. When I think of President Clinton's tendencies in this regard, I am reminded of the sign Ronald Reagan kept on his desk: ''There is no end to what a person can accomplish if they do not mind who gets the credit.''

IRS reform. Welcome aboard, Mr. President.

SUPPORT PUBLIC EDUCATION IN AMERICA

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

Mr. MCGOVERN. Mr. Speaker, the success of America is a direct result of its public school system. We were among the first nations in the world to provide for universal public education for all our children. I would venture to say that the majority of Members of this House and the overwhelming majority of their staff are products of the public school system in this country.

Why then, Mr. Speaker, is the Republican leadership of this House so hostile to our public schools. Let me say a word about the public school system in the Third Congressional District of Massachusetts, which I represent. In the city of Worcester, the families and community enthusiastically embrace the public school system. Eighty-seven percent of the children eligible for grades K through 12 attend public schools.

Working together as a community, Worcester School Superintendent Jim Garvey, teachers, parents, business leaders, area colleges and universities, and neighborhood groups have created a school district with topflight teachers providing education to every child.

This effort deserves our respect and our praise. Mr. Speaker, I will not support the majority's plan to dismantle our public education system. I urge my colleagues to reject these efforts on the House floor this week.

EDUCATION

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

Mr. THUNE. Mr. Speaker, reading, writing, and arithmetic are the basic building blocks of education. Today, I would like to talk about an education issue that just does not add up, no matter how we do the math.

A recent study found that 14 billion is allocated to the Department of Education for elementary and secondary programs. Of that $14 billion, $2 billion never reaches local school districts. This must be some crazy form of new math, because I cannot quite see how this adds up.

The Department of Education is spending our tax dollars on something our children never see in the classroom. We can apply algebra, geometry, calculus, but no matter how we look at this equation, we get the wrong answer.

That is why I support House Resolution 139, the Dollars to the Classroom resolution. This measure puts 90 percent of the Department of Education's elementary and secondary funds where they belong, in the classroom. It is pretty simple. Subtract the money from the Washington bureaucracy and add it to the local school districts. That equals better education for our students and a better buy for taxpayers.

REFORM OF THE IRS AND TAX CODE

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

Ms. GRANGER. Mr. Speaker, when I was first elected to Congress, people told me that to be successful in Washington I had to know how to count my votes. I did not come to Congress to count votes. I came to make my vote count. One issue I want to speak out on today is the IRS.

Recent hearings in the Senate have only confirmed what millions of Americans have always known, the IRS is outdated, out of touch and out of control. Mr. Speaker, it is no wonder the American people are growing frustrated with the way the IRS does business. The IRS recently spent $4 billion on a computer program which was completely unable to function because it was literally overwhelmed by a Tax Code which is too complicated and too convoluted.

How can we expect the American people to comprehend a Tax Code when a $4 billion computer cannot?

Mr. Speaker, I raise these issues not because I wanted to indict the IRS. I raise them because I want to improve it. We owe the American people more, much more. We owe them an IRS that is reasonable and we owe them a that is readable. Mr. Speaker, the world's freest people deserve the world's fairest tax system.

I do not think that is too much to ask. Let us tear down the Tax Code and build up the American people.

CHARTER SCHOOLS

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

Mr. KINGSTON. Mr. Speaker, in 1992, there was one charter school in the United States of America. Today, there are over 1000. In the next 3 years, there are expected to begin 3,000 more. What.

Is a charter school and why do they seem to be growing and seem to be so popular? A charter school is a public school. It is publicly funded, but unlike most public schools these days that have all their rules and regulations dictated by Washington bureaucrats, charter schools have their own rules, their own goals and their own set of regulations. That is why they are so popular.

Every day when I speak to a teacher, she or he tells me about the paperwork that they must do, 2 to 3 hours' worth each week to send off to Washington or to Atlanta to the State Capitol. They tell me about going to seminars where they are told not to hug children, not to touch children, never to walk into a bathroom alone with a kid because of

harassment and so forth. I talked to parents who will no longer go to PTA meetings because they say it does not matter. We have no control anymore.

Mr. Speaker, charter schools return local control to those parents and those teachers and that classroom. That is why charter schools are so important and that is why the Republican conference is supporting them.

CONGRATULATIONS TO REV. JESSE JACKSON

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to pay tribute to the Reverend Jesse Jackson. The reason I do so is because I am delighted that the President of the United States has decided to select this man for all seasons to be Special Envoy to Africa.

Many of us have seen the works of Reverend Jackson and know full well his compassion and intellect, his commitment to world peace and humanity. What better position than to assign him as a Special Envoy to Africa, working with this great continent on humanitarian issues, on issues of peace, economic development, and social justice. It was Reverend Jackson who was at the pivotal point of working against apartheid in South Africa, one of the strong, eloquent agitators who provided for the freedom of the now distinguished statesman, President Nelson Mandela. Certainly a child of the movement and of the civil rights era, a protege of Dr. Martin Luther King, he was raised in the arena of understanding how to achieve peace.

We wish him well and he will make us very proud. Reverend Jackson is an American, but he is a world leader and we are delighted to have his leadership as a Special Envoy to Africa. Congratulations, Rev. Jesse Jackson.

ANNOUNCEMENT ON RULE FOR H.R. 1270, THE NUCLEAR WASTE POLICY ACT OF 1997

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

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet on Friday, October 24, this Friday, to grant a rule which may restrict amendments for consideration of H.R. 1270, the Nuclear Waste Policy Act of 1997. Any Member contemplating an amendment to H.R. 1270 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than 5 p.m. on this Thursday, tomorrow, October 23. The Committee on Rules office, for those who are not aware of it, is upstairs in H–312.

Members should draft their amendments to the Committee on Commerce reported version of the bill, which the Committee on Rules intends to make in order as the base text for the purpose of amendment. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the distinguished Parliamentarian to be certain that their amendments comply with the rules of the House.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes. The joint resolution shall be considered as read for amendment. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SNOWBARGER). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA [Mr. MOAKLEY], the distinguished ranking minority 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.

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

Mr. DREIER. Mr. Speaker, this rule makes in order House Joint Resolution 97, which makes further appropriations for fiscal year 1998. It is a closed rule providing 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The continuing resolution made in order by this rule is very simple and noncontroversial. It simply extends until November 7, funding for those agencies and programs that have not received permanent appropriations on the terms and conditions imposed by the previously adopted continuing resolution, which as we all know, expires tomorrow.

As we all know, approval of this continuing resolution is necessary to prevent a Government shutdown since only 5 of the 13 appropriations bills have been signed into law, although 2 more are pending Presidential action right now. Hopefully, by November 7, differences over the remaining appropriations bills can be resolved, and the Government will be operating under more normal conditions.

I also know that a number of my colleagues are troubled that the continuing resolution extends section 245(I) of the Immigration and Nationality Act.

□ 1030

I share their concern that in its current state section 245(I) may continue to encourage illegal immigration, although it is not the source of our illegal immigration program, and I am not convinced that allowing it to totally expire is the right solution. The issue needs to be resolved, preferably through compromise language that both opponents and proponents of the law can agree on.

My Committee on Rules colleague, the gentleman from Sanibel Island, FL, [Mr. GOSS], has a thoughtful solution, and I hope it will be part of any discussions we have. Our Republican leadership is also working with both sides to resolve the differences.

But this rule, and the continuing resolution it makes in order, are not the appropriate vehicles for settling this dispute. It is totally appropriate to grant section 245(I) a 2-week extension because this and other issues pertaining to the Commerce, Justice, State appropriations bill are still being addressed in conference with the Senate.

Let us debate section 245(I) and all of the other differences that have yet to be resolved, but let us do it at the appropriate time and the appropriate place.

Mr. Speaker, I urge adoption of this rule, and I reserve the balance of my time.

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

Mr. Speaker, we are doing the second continuing resolution because, despite the late date, despite the President's very clear decisions, my Republican colleagues still have not done their job and they still insist on playing politics.

The 13 appropriation bills should have been sent to the President for signature 3 weeks ago, but 4 of them are being stalled because my more radical Republican colleagues insist on attaching very controversial provisions to these bills. And as far as the President is concerned, those partisan provisions just beg his veto.

Mr. Speaker, the Government shutdown looming on the horizon may sound very familiar to us. Last Congress, when my Republican colleagues picked politics over pragmatism, they closed the Federal Government several times to the tune of hundreds of millions of wasted tax dollars.

For the sake of veterans and for the sake of Social Security recipients, Mr.

Speaker, I hope they are not planning to do that again. But, Mr. Speaker, it is sure starting to look that way.

Today's temporary funding bill will keep the Government from shutting down for another week. We need this bill, Mr. Speaker, because my Republican colleagues have refused to pass the rest of the appropriation bills. Some Members, unbelievable as it may sound, some Members would rather watch these appropriation bills go down in flames rather than work with President Clinton and their Democratic colleagues to make sure they become law.

For instance, Mr. Speaker, my Republican colleagues are using the Commerce, Justice, State appropriation bill to stop the Census Bureau from using a technique called sampling, which most experts agree will give us a more accurate census count. But that accuracy, Mr. Speaker, will come mostly from improved counts of people in inner cities and rural areas, and as far as my Republican colleagues are concerned, those people are better off not counted because their presence might hurt Republicans at the polls.

My Republican colleagues are also forcing a showdown on President Clinton's national education standards. President Clinton is hoping to set standards for fourth grade reading and eighth grade math, but my Republican colleagues just do not agree with him. And over that issue, and over that issue alone, the Labor, Health and Human Services appropriation bill may never see the light of day.

On a better note, Mr. Speaker, I am glad my colleagues have included the extension of section 245(I) of the Immigration and Naturalization Act in this continuing resolution. This provision will allow immigrants the opportunity to stay in this country while their applications are being processed. And those are only the immigrants that are eligible for citizenship. Mr. Speaker, these people are hard working. They have families here, and we should not be uprooting them from their families and jobs while they are waiting in line, legally, to become citizens.

Mr. Speaker, I hope this provision does not stop with the continuing resolution. I hope it will be permanently extended when we take up the Commerce, Justice, State appropriation conference report, if we take it up at all.

So Mr. Speaker, despite my opposition to the choice of politics over substance, I will support the continuing resolution. The American people deserve a government that is open for business, no matter how childish we get here in Washington, and 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 Huntington Beach, CA, [Mr. ROHRABACHER], my very good friend with whom I have worked closely on a wide-range of issues, including the problem of illegal immigration.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER]. He and I have worked on a number of issues over the years and we have a close relationship, but I might add the issue I will be talking about today is a bipartisan issue that crosses both sides of the aisle.

I had been planning to oppose this rule. I had been planning to stand up today and ask my colleagues to join me in opposing this continuing resolution because it included in it a provision which would grant amnesty to 500,000 to 1 million illegal aliens who are currently residing in the United States of America.

That issue is a significant issue. It is something that I did not receive an agreement on until just a few moments ago, that there would be an up and down vote other than on this rule. So today, while not opposing the rule, I am announcing to my colleagues and to those people who are listening that there will be an up and down vote.

The reason why we will not be opposing this rule is that there will be an up and down vote on 245(I) next Wednesday in the form of a motion to instruct conferees on the Commerce, Justice, State appropriation bill to insist on the House's, that means this body's, disagreement with the Senate's permanent extension of 245(I).

Now, we all know in the House a motion to instruct conferees is not a binding motion. It does not actually secure the change in law that we are trying to gain. But if we win that vote, we then have been assured by the leadership that there will be a binding vote in this body on the issue of 245(I). So between now and Wednesday this issue of 245(I) will be discussed.

Just a preview of how much I disagree with my good friend, the gentleman from Massachusetts [Mr. MOAKLEY] on this issue, is that we passed an illegal immigration reform bill last year with the intent of restoring respect for America's immigration law. By taking half a million to a million people who are in this country illegally, and permitting them to stay in this country for $1,000, we are breaking down the respect for our immigration law that we attempted to build last year in our immigration reform bill. It is totally contrary to that process.

What we are talking about is an amnesty, a new amnesty for 500,000 to 1 million illegal immigrants. I strongly oppose that. It is in the Senate's bill already, in their Commerce, State, and Justice appropriation bill. Again, this provision has been snuck into law. We will have a chance to vote on it.

There has only been one vote in the Congress of the United States on the issue of 245(I). That vote was a resounding no. And then 3 years ago it was, instead, snuck into another larger piece of legislation without a vote for even a conference report, that was not voted on by either the House or the Senate. So the only vote that we have ever had on 245(I) has been against it.

We owe it to the American people not to have a policy in place that is so controversial and so contrary, actually contrary to the wishes and contrary to the interests of American citizens and legal immigrants into our country, without having a direct vote in the House. We have now been guaranteed that there will be an up and down vote. The first vote on this will be Wednesday on the motion to instruct conferees. And if we win that, there will be a binding vote.

So I will be supporting this rule and ask my colleagues to join me and look forward to the debate on this issue next week.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to including the provision on section 245(i) to extend amnesty to Illegals. Although, I accept the public commitment made by the House leadership on allowing an up or down vote on this issue next week. I stand with our colleague Representative ROHRABACHER on this commitment to an up or down vote. When that vote comes, I urge my colleagues to vote against any extension.

Section 245(i) of the Immigration and Naturalization Act should not be extended. This rewards illegal immigrants who knowingly violated the law and permits them to remain in the United States and gain permanent status.

What message does this send to people around the world? It tells them that they are better off to break the law than to follow it. It sends the wrong message to law-abiding people in other countries who have legally applied for entry into the United States while remaining in their homelands for their visas to become available. It tells them to come to this country illegally and then adjust the residence status. Section 245(i) inundates the INS another endless set of applications, further creating a backlog to delay conducting background checks and investigating fraudulent applications.

I am concerned today that our benefits system acts as a magnet for many illegal immigrants. For example, many children of illegal immigrants receive a free education in U.S. public schools at the expense of American taxpayers, driving up the cost of education and taking resources away from U.S. children. The State of New Jersey alone spends an estimated $146 million a year to educate about 16,000 children of illegal aliens.

The argument has been made that by allowing section 245(i) to stay on the books, the INS makes up to $125 million in revenue received from the $1,000 fee that aliens pay to obtain legal status. But, this money pales in comparison to the multi-billion dollar cost imposed on taxpayers as a result of the devastating consequences of illegal immigration.

The cost associated with providing Federal benefits to illegal immigrants is astronomical. While as a society, we should not turn people away from an emergency room or deny food to the hungry; but I do not believe we should reward illegal immigrants by allowing them to stay. While millions of others wait their turn in line, year after year to enter legally.

Although I understand that there are extenuating circumstances in some cases, I believe that anyone who is in the country illegally should be held to the letter of the law.

I urge my colleagues not to support any extension of section 245(i) and to vote against any extension at the appropriate time next week.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], the chairman of the Permanent Select Committee on Intelligence and the Subcommittee on Legislative and Budget Process.

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

Mr. GOSS. Mr. Speaker, I thank my friend from greater metropolitan downtown San Dimas, CA, the distinguished vice chairman of the Committee on Rules for yielding me this time, and I rise to support his rule.

By allowing the House to consider this 2-week extension of the existing continuing resolution, this rule helps to ensure that current government functions remain operational while the Congress completes the work on next year's funding measures. We all know that and we all know why we are doing this.

Mr. Speaker, we will hear much discussion today of one provision of the law that is still very highly controversial and that may be extended for 2 weeks under this CR. I oppose a long-term extension of that provision of the immigration law, known as section 245(I), which has been discussed already this morning, which allows aliens who are in this country illegally to pay a fee and then adjust to permanent legal resident status.

This provision was, in fact, slipped into permanent law 3 years ago without hearings, without public discussion, or without debate on this floor. That is not the way laws should be made.

As part of the immigration reform of the 104th Congress, section 245(I) was set to expire on September 30. In other words, we had a phaseout of that provision, to be fair to all people who were put on notice. However, Congress extended the deadline for 3 weeks in the first continuing resolution this year to allow time for Members and the public to consider ramifications.

As that discussion is still continuing without resolution, the second CR includes another brief extension. I will support this one last extension in the hopes that a consensus can be achieved, and I believe it can. But I will not support a blanket extension, and I urge the House leadership to set aside time for full debate and vote on this issue.

In my view, indefinitely extending the 245(I) provision flies in the face of the reforms we passed last year by negating the consequences of illegally entering the United States. A permanent extension would further damage the credibility of our immigration system, which has for too long had its priorities reversed. For years, illegal immigration has been quick, while following the rules has been a slow and difficult process. Those who did it right, paid a penalty; those who did it wrong, got the rewards. That is backward.

In addition, a permanent extension would perpetuate an inherent conflict of interest for the INS, which is both tasked with deporting illegal aliens and requiring to process these people for legal residency. That is a tough decision for them.

While it seems there is no obvious middle ground, I have a proposal, which I understand the distinguished ranking member has spoken to already, to mitigate the impact on children under 18, who rely on section 245(I) to become legal permanent residents. In other words, reduce the impact on the families, which is a major concern for those of us in congressional offices who have been hearing about this.

□ 1045

This proposal would grandfather in minors already present in the United States and who have approved pending petitions. But it would not contradict the reforms we enacted last year. This is an important debate and there are many issues involved. We simply cannot have a policy that tells people who have abided by the lawful, established procedures that they would have been better off to simply have come across the border illegally or to ignore our laws. That is not good governance, it is not what the people of this country are asking us to do. I urge support for this rule.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleague across the way said that it is not amnesty. It allows illegals to remain in this country. That is amnesty. I do not care what semantics are, but it allows them to stay here and we are opposed to that. If you are here illegally, if you come into the United States illegally, we will legally deport you to whatever country of origin that you have, and that is our position. That is what we are sticking to.

I would also say to the gentleman when he talks about extreme Republicans that cause the President to veto bills, we passed Medicare over to the President. It was vetoed. The DNC through the unions and the White House, thousands of negative ads on the Medicare, and the Government shut down. It is the same Medicare bill that was passed in the balanced budget, but there are still extremists on the other side that do not want the Medicare reform. The same was true with the welfare reform, vetoed, and Government shut down, but yet welfare reform untraps people and we passed that.

I would also look at direct lending. The President wanted 100 percent of direct student loans in 1 year capped at 10 percent. It cost $7 billion annually more through the President's direct lending. But that was a pet program, so the Government shut down and the President said, ''We're not going to let the Government go until the extremists allow me to have 100 percent of the direct loans.'' There was a negotiation. Forty percent went forward. In 1 year, they could not account, the Department of Education, for $50 million, and we said, ''That's wrong.'' Also capped at 10 percent, $7 billion additionally a year. What happened with the 40 percent? We just so happened to put it in where you cannot grow the bureaucracy. We saved $10 billion. We increased IDEA, we increased Pell grants to the highest level ever. And you call those extremist ideas, but you want to keep adding big Government, you want big bureaucracy. It takes higher taxes to go forward and support it. We are not going to allow that to happen.

When you talk about a rule that allows illegals to stay in, that is also not an extreme position. Legals, yes. Illegals, no. I will support this rule. I had planned like the gentleman from California [Mr. ROHRABACHER] on Friday to vote against the rule because of 245(i). But I would also say to my colleague on the other side, for whom I have a lot of respect, when they want to get up and demagogue about the misinformation of the left, 100,000 cops. There are not 100,000 cops out there. You know it and I know it. But yet you say it over and over. When the DNC fights Medicare and welfare reform and a balanced budget was vetoed twice by the President and then comes forward and supports it, yes. But do not call us extremists for a balanced budget, for welfare reform and tax relief for the American people.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. Again I cannot let Members use the term ''amnesty.'' ''Amnesty'' is a definite term used in immigration. One-week, 2-week extension of deportation is not amnesty. I would hope that people would just use that term the way it is meant to be used.

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

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume. As has been pointed out on both sides, this is a very simple, clean continuing resolution which allows us to ensure that the government will not shut down. Yes, it does have that 2-week extension of 245(i). The main reason it does is that we are in the process of working on negotiations.

The gentleman from Miami, FL [Mr. DIAZ-BALART] has just walked onto the floor and he is in the midst of working on those, along with others who feel very strongly about addressing this issue. The gentleman from California [Mr. ROHRABACHER] has said that we will have a vote next Wednesday on the floor. So the issue is, in fact, moot at this juncture. We should support this rule and support the continuing resolution.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 269, I call up the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 97 is as follows:

H.J. RES. 97

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(3) of Public Law 105–46 is amended by striking ''October 23, 1997'' and inserting in lieu thereof ''November 7, 1997'', and each provision amended by sections 118, 122, and 123 of such public law shall be applied as if ''November 7, 1997'' was substituted for ''October 23, 1997''.

The SPEAKER pro tempore [Mr. SNOWBARGER]. Pursuant to House Resolution 269, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 97 and that I might include tabular and extraneous material.

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

There was no objection.

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

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

Mr. LIVINGSTON. Mr. Speaker, the initial fiscal year 1998 continuing resolution expires tomorrow night. Currently 5 of the 13 appropriations bills have been enacted into law and 2 others are pending at the White House. We have concluded conference on one additional bill which is pending in the Senate, leaving five left to finish in the House. Because these remaining bills will not be completed by tomorrow night, it is necessary now to proceed with an extension of the current short-term continuing resolution so that government can continue to operate while we finish our work.

The joint resolution now before the House merely extends the provisions of the initial continuing resolution until November 7. The basic funding rate would continue to be the current rate. We retain the provisions that lower or restrict those current rates that might be at too high a level and would therefore impinge on final funding levels. Also, the traditional restrictions such as no new starts and 1997 terms and conditions are retained. The expiration date of November 7 should give us time to complete our work.

Mr. Speaker, while I am disappointed that we have to be here asking for another extension of the current continuing resolution, this is the right kind of action that we should be taking under these circumstances. It will be signed, and I hope that we can get on with completing our work by the end of this proposed continuing resolution. I urge the adoption of the joint resolution.

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

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, there is absolutely no reason for this continuing resolution to be here and for that matter there is absolutely no reason for this Congress to continue to be in session. To the best of my understanding, we are continuing to be in session past the leadership's original target date for adjournment for two reasons.

One, there appears to be a Senate Republican Campaign Committee dinner with a fundraising target of $5 million which is to take place on November 5 or 6, and I guess certain folks would like to keep the Congress around for that so there is good attendance at that dinner.

The second reason is because there are essentially four issues remaining on four appropriation bills which reasonable people ought to be able to resolve and which if left to this committee could be resolved within a week. There is no reason whatsoever why appropriation bills could not be finished yet this week or certainly early next if this committee were allowed to do its work on appropriation items. But we have four issues which are still hanging out there. Until somebody at a higher level than the committee decides which way this boat is going to go, we are going to be continuing to go in circles.

Virtually nothing has happened since we passed the last CR with the exception, I believe, of one or two noncontroversial appropriation bills. But we are still being held up on the issue of education testing. It would seem to me reasonable people could come to a compromise on that agreement. We are still being held up on Mexico City policy because the right-to-life folks in the Republican caucus will brook no compromise whatsoever and some of the population groups on the other side of the issue will also brook no compromise whatsoever.

Again, it seems if this House is willing to take back its duty and do what it thinks right rather than listening to outside lobby groups, this Mexico City issue could be resolved in about 5 minutes.

On the District of Columbia bill, we have those folks on the other side of the aisle who would rather see, as they have already been quoted in the newspaper as saying—and I am not talking about all the folks but some of the folks—we see some of those folks saying that they would rather see the entire District of Columbia budget held up for months rather than to compromise on the issue of $7 million for vouchers.

And then on the Interior bill, we have language which was inserted by the conferees with respect to Lake Clarke which was certainly not in either bill and which in my view is a huge threat to that spectacular piece of property, and that is holding up agreement. And so is the fact that the administration has come in with a number of items late in the day expressing their objections about those items when in fact many of them were not raised when we had top level discussions with the leadership on those issues. And so it seems to me that there is no reason whatsoever to continuing this session or to pass this CR except for the fact that we have a few folks around this town and in two cases a few folks in the other caucus in this House who would rather hold their breath and turn blue than get the people's work done.

There is not a whole lot we can do about that, but we are essentially getting paid each day between now and the end of this session for doing nothing. It seems that sooner or later, we ought to tell both the hardheads in this House and the Johnny-come-latelies in the administration that we are not interested in their continuing to hold up our ability to finish this session of the Congress. It seems to me that granting further extensions only encourages people to refuse to cooperate.

It appears to me that we are not going to be able to shut this place down until the extreme elements in this House on at least two issues have demonstrated that they are willing to go right through the end of the continuing resolution period before they are going to be willing to compromise. As long as we are around here, the administration is going to be continuing to ask for other items that they had not thought of before.

It just seems to me what we ought to do is pass this CR and say, ''Boys and girls, no more. No more. Get your work done. Come up here and compromise, recognize that you are not just elected to define differences, you are also elected to resolve differences once those differences are defined.''

As I said earlier, on the Appropriations Committee I am convinced the gentleman from Louisiana and I could reach agreement in about 2 days, maybe 2 hours on these items. It just seems to me it is ludicrous to pretend to the public that anything useful is going on because hardheads will not be reasonable.

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

□ 1100

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

Mr. Speaker, much of what the gentleman from Wisconsin has said, I have to agree with. I think we could wrap up our business very rapidly, but for other reasons, we are not. I would say we are making progress. We are not sitting around doing nothing. The fact is we expect that today, for example, the Interior bill will be resolved and filed with the House, and the Labor-Health bill by the end of the week will, for all intents and purposes, be finalized and be ready for House action next week.

But in addition to appropriations matters, let me say that the Congress still has yet to complete action on the ISTEA legislation, which deals with funding of transportation projects. That will have to be done between now and the time that we adjourn, and a matter of great importance to the President, if not to the other side of the aisle, is this whole matter of fast track, which deals with the authorization of the President to negotiate trade deals with our Latin American friends and allies.

The President has said that it is very important to him and to the future of the country, and I tend to agree with him. However, if you do a nose count at this point, the fact is that the President has been very unpersuasive with his Members of his own party. Very few Members of the Democrat Party as of this moment seem to support that fast-track legislation, and it would fall on the shoulders of the Republicans to pass the legislation, which, frankly, puts us in an awkward position, because some of our Members do not favor it. And the last thing in the world that would be good for this country, and, in fact, for this administration, is if the matter were brought up to the floor and had an insufficient number of votes to pass.

So I expect that the President, if he is listening or if he reads the proceedings of debate on this resolution, should get busy and start calling Members of his own party to encourage them to support an initiative which he has advocated and proposed and backed for the last couple of years.

That is an important piece of legislation, and that must be tackled before we leave. If we do not have the votes, however, it will not be.

With that, Mr. Speaker, I have no additional requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, a small point, but I would ask the gentleman when he refers to my party to refer to it as the Democratic Party. That is, in fact, the name of our party. We do not call the Republican Party the ''Republic Party.'' It has been a practice of some Members of the Republican Party for a generation to call us the ''Democrat Party,'' but, in fact, it is the Democratic Party, and I would appreciate it if they would remember that.

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

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, having grown up in Louisiana where the Democratic Party was of paramount significance throughout my entire life, I would only say that was what I was taught by my friends, neighbors, peers, allies, and Democratic friends. So that is why I used the term ''Democrat.''

Mr. OBEY. Mr. Speaker, reclaiming my time, the name of the party is ''Democratic.''

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, first I want to rise in support of the continuing resolution and to congratulate both the Chair and the ranking member of the committee for the extraordinary work they do on this whole process. If everything went as they wanted, I think we would be moving through this whole process quite quickly.

But I took this time and came to the floor after listening to some really flagrant misrepresentations about one aspect of the continuing resolution and of the appropriations process, and that is the question of the extension of section 245(I).

I have heard it discussed as an amnesty provision and stay of deportation provision. Section 245(I) has nothing to do with that.

Section 245(I) of the law, in the immigration law, is only available to people who are already eligible to become permanent residents. It is not an amnesty, it only applies to people who, under our legal immigration system, are now eligible at the particular time to adjust status.

The only issue it deals with is where they can adjust status, whether they can adjust status in this country or whether they have to go back to their home country, take the airline, pay the airline, go into our consular office at our embassy or one of the Consulates in the foreign country, go in that morning, show their papers, pick up their visa, and in many cases on the very next flight.

What we did back 3 or 4 years ago is say this is crazy. We are pushing a great deal of resources into our beleaguered embassies abroad for work that is not particularly relevant to anything in our national interests. We are giving money to the airlines. Let us raise the fees for that adjustment.

Let the agency that is most equipped to deal with it, the Immigration and Naturalization Service, deal with it, in-country, for those people who are eligible. It simply permits these people who are eligible, who are in line, whose time has come, to adjust to legal status in this country as a permanent resident, to do that in the United States.

It does not give illegal immigrants the right to live in the United States. It is not a defense to an action for deportation. It is not a stay of deportation. It is not an American necessity. It does not declare as legal people who have come here illegally. It does not change the order in which a person's claim is adjudicated.

There is one single worldwide line for everyone who is waiting for their immigrant visa. There are category limits, there are country limits, and only when that person's number comes up and that person's time in line, he gets to the front of the line, can he then adjust his status.

Mr. Speaker, we produce now $200 million a year in revenue, essentially by processing the people in-country rather than giving even greater amounts of that money to the airlines and costing our State Department far more to process them overseas. This frees up our consular officials to do the key work of screening applicants for visas in those countries, looking for terrorists, looking for people with criminal backgrounds, ensuring they do not come into this country. It has them doing the work we should be wanting them to do, not simply processing the paperwork for people whose turn has come through the legal immigration system.

It is for that reason that an incredible array of organizations, almost every major business organization in the country, wants to do this. This is the most expeditious and sensible fashion for processing legal immigrants.

So, I just hope as the appropriators go to a decision on the Commerce-State-Justice bill, as we deal with this continuing resolution, that all of the scare tactics about amnesty and stays of deportation are seen for what they are. They are an effort to cloud the real issue in the 245(I) debate.

Section 245(I) produces $200 million a year by allowing people whose time has come to adjust status through the legal immigration system to adjust in the United States. Eighty percent of that money goes for enforcement of our borders and to keep illegal immigrants from entering the United States, and it makes a tremendous amount of sense from every point of view and from every type of analysis. I urge its adoption.

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

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

The SPEAKER pro tempore (Mr. SNOWBARGER). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 269, the previous question is ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call

up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows.

H. RES. 271

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. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. 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 the Judiciary. 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 the Judiciary now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except a further amendment in the nature of a substitute offered by Representative Conyers of Michigan or his designee, which shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. If that further amendment is rejected or not offered, then no other amendment shall be in order except the amendment printed in part 2 of the report of the Committee on Rules, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. 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 amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 271 is a modified closed rule providing for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary, and waiving points of order against consideration of the bill for the failure to comply with clause 2(L)(6), relating to the 3-day availability of committee reports.

Additionally, House Resolution 271 makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment, modified by the amendments printed in part 1 of the Committee on Rules report. Moreover, the rule provides that the committee amendment in the nature of a substitute shall be considered as read.

Additionally, House Resolution 271 provides for an amendment in the nature of a substitute, if offered by the gentleman from Michigan [Mr. CONYERS] or his designee. The rule provides that this amendment, if offered, shall be considered as read, shall be debatable for 30 minutes equally divided and controlled by the proponent and opponent, and shall not be subject to amendment. If the gentleman from Michigan [Mr. CONYERS] or his designee does not offer the amendment or if the amendment is rejected, no other amendment shall be in order except the amendment offered by the gentleman from New York [Mr. BOEHLERT], which shall be considered as read, shall be debated for 30 minutes, equally divided between the proponent and opponent of the amendment.

□ 1115

Likewise, this amendment shall not be subject to amendment.

Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions. House Resolution 271 was reported out of the Committee on Rules by voice vote.

Mr. Speaker, House Resolution 1534, the Private Property Rights Implementation Act of 1997, is an attempt to address procedural hurdles which currently prevent property owners claiming a violation of the fifth amendment's takings clause from having fair and equal access to Federal court. H.R. 1534 attempts to remedy this situation by defining when a final agency decision takes place and prohibiting Federal judges from invoking the abstention doctrine to avoid cases that revolve on the fifth amendment takings claims. I urge my colleagues to support this rule.

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

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

Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This important legislation seeks to provide a clear end to the process of resolving land use disputes which, under the current administrative and judicial system, can drag on for years.

While this legislation seeks to give property owners their day in court, it does not change the statutory underpinnings that define takings, it does not change environmental laws, and it does not mandate compensation. What it does do, Mr. Speaker, is to provide a much more expeditious remedy to land use and property rights disputes arising from Federal statutes and constitutional law.

In spite of my support for the legislation, Mr. Speaker, I must oppose this rule which provides for its consideration. The Committee on Rules majority has recommended a rule which denies the House the opportunity to fully debate the matter. This rule, in effect, forces Democratic Members to barter among themselves for which amendment to the bill might be included as a part of a Democratic substitute.

In addition, an amendment relating to homeowners and their property rights, which was brought to the committee by the gentleman from Minnesota [Mr. VENTO] was rejected by the committee Republicans. The excuse offered by the Republican majority was that there was not sufficient time to consider amendments before the House completes is business for the year. This is a very poor excuse, Mr. Speaker, for denying Members the opportunity to fully debate a matter of such importance.

I support this legislation and I will urge all Members to vote for its passage, but I am of the opinion that the consideration of one or two additional amendments would not have tied up the House and delayed our departure. Perhaps it would have been wise for the Republican leadership to have scheduled more legislative days this month and fewer district work period days. We have important business to attend to in Washington, and H.R. 1534 is just one of those important matters that should be heard and should be passed.

I have no doubt, Mr. Speaker, about the outcome of the vote on this rule, but I would like to remind my Republican colleagues once more of their pledge to open the process in this House. This legislation is seeking to clear away hurdles encountered by property owners who seek to assert their rights in court. Why then cannot the Republican majority do the same for Members of this House, and clear away the hurdles that they have erected which prevent Members from expressing their points of view?

Mr. Speaker, again, I support H.R. 1534. It is a bill which enjoys bipartisan support, and is a far cry from the takings legislation passed by this House 2 years ago. This legislation is a procedural bill which clarifies how the Federal courts should address Federal property rights claims. It seeks to bring relief to property owners, who now can spend an average of 10 years

jumping through the administrative and judicial hurdles that currently exist in order to be allowed to use their property. It is relief that is long overdue, and which can be remedied through passage of this bill.

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

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

Mr. Speaker, first of all, I appreciate the support of the bill offered by the gentleman from Texas [Mr. FROST].

Mr. Speaker, 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 resolution was agreed to.

A motion to reconsider was laid on the table.

THE REFORM OF THE INTERNAL REVENUE SERVICE

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

Mr. MCINNIS. Mr. Speaker, I have this opportunity today to talk about the Internal Revenue Service. As we know, it is great gratitude that I express to the White House, and thank the President for changing his mind, thank him for coming on board with this Republican majority here, and frankly being helped by a lot of Democrats, to force reform in the Internal Revenue Service. This is a charge that has been led by the Republican Party. It is a charge that will be seen through by the Republican Party. Now it is a charge that is going to be supported by the White House.

Why do we need reform in the Internal Revenue Service? Because that is one of the few exceptions in the judiciary process in this country where you are assumed guilty and you have to prove yourself innocent. That is one of the agencies the gentleman from Texas, Mr. ARCHER, who should receive lots of merit and lots of commendation for his leadership on this, is going to change.

It is about time that the Internal Revenue Service, when they come to your house, you are assumed innocent until the IRS proves you guilty. There are some other very basic and fundamental reforms that we are going to put through on the Internal Revenue Service. This is a great day for the taxpayers of this country. Finally they are going to have accountability from the Federal Government that works for them.

THE PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

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

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of the rule that was just considered. I want to thank the Committee on Rules, particularly the gentleman from New York, Chairman SOLOMON, for the very fair approach that has been taken on this bill. The rule will allow full and open debate on a policy dispute of great significance. Again, I offer my appreciation and my support.

What is the policy dispute that is at the center of H.R. 1534? It comes down to this: Do Members of this body want to interfere for the first time with the most basic sorts of local zoning decisions? I say we should not do that, that any problems that exist with local zoning procedures ought to be remedied by State law, not by the intrusion of Federal judges.

I am more than a little bit surprised to see some of my more conservative colleagues throwing overboard their professed belief in Federalism to allow Federal judges to intrude early on in these extremely local matters.

This is not just my view. I do not stand alone in the well of this House. The bill is opposed by the National Governors' Association, by 40 States Attorneys General, including Attorney General Lundgren of California, Attorney General Vacco of New York.

The list goes on and on. It is opposed by the Judicial Conference of America, chaired by Chief Justice Rehnquist of the Supreme Court of the United States; it is opposed by the National League of Cities; by the U.S. Conference of Mayors; by all the environmental groups who, incidentally, are going to double score this bill, because of the significance of what is being proposed. The list of opponents of H.R. 1534 goes on and on. I think it is very important for all of my colleagues to really give full focus to what is being proposed.

I am not sure how anyone could claim with a straight face that this bill is ''noncontroversial''; anything but. The manager's amendment represents a decided improvement in the bill, but it does not remedy the fatal flaw. The bill still would let Federal judges interfere with far more local zoning decisions. Think about that. Do we want everything kicked upstairs to the Federal Government, where all decision-making is made here? I think the answer to that is clearly no.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

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

There was no objection.

Mr. BOEHLERT. Mr. Speaker, my substitute, the Boehlert substitute, is the only way to correct that flaw, because it would eliminate the portion of the bill dealing with local zoning laws.

Let me reemphasize what we are talking about. We are talking about local decisions made in local communities on whether or not, for example, to deny a permit for building in an area, if when that permit were granted it would bring in unnecessary intrusion in terms of heavy traffic, where adequate infrastructure does not exist. It happens in our home towns every single day.

Do we want decisions made for us in our home towns by Washington, DC in every single zoning issue? I think the answer is clearly no, so we have to deal with it in a different way.

We would expedite Federal court access for property owners with a claim against a Federal agency. I think that is very appropriate. I urge support of the rule and support for the Boehlert substitute. I thank the Chair for being so indulgent.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 1534.

□ 1127

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. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER 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 for the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentlewoman from California [Ms. LOFGREN] will each control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

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

Mr. Chairman, H.R. 1534 is about Congress' duty to implement the 5th and 14th amendments to the Constitution. The U.S. Constitution protects individuals from having their private property ''taken'' by the Government without receiving just compensation.

To file a claim of a violation of that fundamental right, plaintiffs encounter several high obstacles which must be

negotiated or crossed prior to the Federal courts hearing the cases on their merits. Plaintiffs alleging violations of other fundamental rights oftentimes do not encounter the same hurdles before gaining access to the Federal courts.

Plaintiffs filing taking claims in Federal court are met with steep requirements prior to their case being considered to be ripe. A plaintiff must show both that there has been a final decision by the State or local governmental entity which has authority over land use, and that the plaintiff has requested compensation by exhausting all possible State remedies.

□ 1130

Ironically, it may be impossible to then get any Federal remedy because the case has been forced to be heard in the State court and a case cannot be tried twice in most instances. Deprivation of a Federal remedy goes against what our Founding Fathers saw as a uniquely Federal matter, it seems to me.

Lower courts attempting to interpret when a final decision has occurred have reached conflicting and confusing decisions which are not instructive to takings plaintiffs trying to determine when their cases are ripe. H.R. 1534 defines when a final decision has been reached in order to give takings plaintiffs some certainty in the law so that their fifth amendment rights may be properly reserved.

Takings plaintiffs also confront the barrier of the abstention doctrine when filing a claim in Federal court. This doctrine gives Federal judges the discretion to refuse to hear cases that are otherwise properly before the court. Judges often avoid land use issues based on the abstention doctrine, even when the case involves only a Federal fifth amendment claim.

H.R. 1534 remedies this by prohibiting district courts from abstaining from or relinquishing jurisdiction when the case alleges only a violation of Federal law. H.R. 1534 would not affect the traditional abstention doctrines, Younger, Pullman, and Burford, used by the Federal courts because it allows a Federal court to abstain from hearing any case that alleges a violation of a State law, right, or privilege.

H.R. 1534 does not remove State court jurisdiction, even over Federal claims. Plaintiffs with Federal takings claims will still be able to file in State courts. H.R. 1534, the bill before us, simply assures plaintiffs with a 5th or 14th amendment takings claim that a meaningful Federal option exists.

This bill has undergone many improvements already since its introduction. For example, amendments included at the subcommittee and full committee levels addressed the special concerns of opponents that the bill was too broad and that it would circumvent local elected officials. At the subcommittee markup, an amendment making it clear that H.R. 1534 applies only to cases involving real property was offered by the gentleman from California [Mr. GALLEGLY], the primary author of the bill, and approved.

At the full committee markup, the amendment of the gentlewoman from California [Ms. LOFGREN], who will be handling the bill for the minority, which required a land use applicant to seek review of a denied appeal, or waiver from a local elected body if that procedure is available, was approved. And I say to the gentlewoman from California, I think that was a sound proposal and I think improved the bill.

Mr. Chairman, the bill includes a manager's amendment which will further address concerns expressed to the committee by other Members. These provisions narrow the scope of terms that could be construed more broadly than intended. It will include a provision that ensures local agencies an opportunity to offer suggestions to an applicant that must be taken into account or consideration in resubmitting the application before the applicant may seek an administrative or judicial appeal and subsequent Federal court litigation.

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

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

Mr. Chairman, I rise in opposition to H.R. 1534, the first takings proposal which specifically targets our State and local elected officials.

This legislation would mandate a series of rules granting expedited access to the Federal courts for property takings claims. In addition to providing developers with special procedural advantages, the bill could alter the substantive law of takings in favor of developers.

The net result would be legislation which does unbalance the playing field as between State and local governments and developers. Even worse, the bill elevates the rights of real property owners above all other categories of persons having constitutional claims against the Government, which would include civil rights victims and the like. We believe that this is being propounded in the absence of any quantitative evidence that justifies this massive intrusion into States rights.

Under H.R. 1534, for example, if a corporation, say Wal-Mart, seeks to establish a very large, some would say even oversized commercial development in a small town, and the town says no because of the massive development and Wal-Mart is dissatisfied, they would have the opportunity to immediately threaten to bring suit and to march down to Federal court, forcing the town to incur a large amount of legal expenses.

Mr. Chairman, in that situation, I will add I spent 14 years in local government having to deal with difficult issues of zoning and land use. It has to be a factor for local governments who are constantly facing financial shortfalls to know that if they decide in favor of neighbors, they may face humongous legal expenses. That has to be factored into the decision-making process.

That is why this bill really does tilt the playing field in favor of developers and away from neighbors and homeowners who enjoy the benefit of zoning protection that local governments do impose.

Mr. Chairman, let me pose this issue because it comes from my own experience. A number of years ago when I was on the board of supervisors we established regulations, because we could not outlaw the pornography businesses that were established in part of our jurisdiction. We, the board of supervisors, were ultimately sued.

Mr. Chairman, in that case, under this law, we would elevate the rights of the pornographers in that case to immediately go to Federal court to challenge the zoning regulations that the local government had imposed. I do not think such a result is intended by the authors or proponents of the bill, but it is an outcome that is predictable and will happen in towns and counties around the country.

Mr. Chairman, it is no wonder that H.R. 1534 has drawn such diverse and strenuous opposition. The Attorney General, the Secretary of the Interior, the Administrator of the EPA, and the Chair of the Council of Environmental Quality have recommended a veto and the President has given strong signs that he would veto this bill.

The National Governors' Association, the Conference of Mayors, the League of Cities have come out in strong opposition to the bill as of yesterday. A bipartisan group of 37 State attorneys general opposes the bill because in their words it invades the province of State and local governments. They are joined by a broad array of environmental groups as well as The New York Times and the Washington Post.

Mr. Chairman, I think we must make sure that we understand that the manager's amendment does not really fix the problems, the many problems in this legislation. Even after the third rewrite of this bill, it still allows developers to bypass local administrators in State courts and imposes significant new costs on local government. It would still impose on the Federal courts to decide cases based on inadequate records, and it still elevates the claim of real property developers above ordinary civil rights claimants.

In some respects the manager's amendment has made the bill even worse by creating a series of complex and vague new procedural requirements and by allowing developers to proceed to Federal court without even waiting for a final answer.

Mr. Chairman, I urge a ''no'' vote on H.R. 1534 so we can continue to allow democratically elected local officials to protect their citizens, to protect neighborhoods and to protect homeowners from unwise development through the prudent use of zoning.

I would like to note also that I do understand there are occasions when

overzealous zoning and regulation can, in fact, lead to takings. In those cases it is fair that justice be brought to the land developer. I do believe in the fifth amendment and its clause providing for due compensation in the case of such takings. However, this is the wrong remedy for those cases and I would urge my colleagues to join me in voting ''no.''

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

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the gentleman from Florida [Mr. CANADY], a member of the Committee on the Judiciary.

Mr. CANADY of Florida. Mr. Chairman, I rise today in strong support of H.R. 1534, the Private Property Rights Implementation Act. This bill has the simple purpose of streamlining the process by which property owners petition for compensation when their property has been taken by a unit of government.

Mr. Chairman, the fifth amendment of the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The intent of this constitutional protection is being thwarted by the current state of confusion regarding when and where a takings claim may be filed. Property owners are subjected to an inefficient and unnecessary legal maze of appeals back and forth between local boards, State courts, and Federal courts.

To illustrate the hurdles which face property owners who seek to defend their property rights, I will cite today the efforts of a couple in Florida who challenged the rezoning of their land. Their 13-year odyssey, 13 years, Mr. Chairman, through numerous layers of bureaucracy is, I am afraid, typical, all too typical of the struggle endured by countless property owners every day in this country.

In 1984, Richard and Ann Reahard inherited 40 acres of land in Lee County, FL, an area not far from the district I represent in central Florida. The land was zoned for high density residential development. Two weeks later the county adopted a land use plan which restricted use of the Reahards' land to a single house. That is a single house on a 40-acre tract. With this rezoning, the county reduced the value of the parcel by 96 percent, yet the county had no plans to compensate the Reahards for their loss.

Among the many zoning petitions filed by the Reahards with local authorities were: An application for an administrative determination of error, a request for plan amendment, and an application for determination of minimum use. These appeals were made variously to the county planning and zoning commission, the county board of commissioners, and the county attorney's office with differing results.

In 1988, that is 4 years from when this odyssey started, the planning and zoning commission approved the building of up to six units per acre on 35 of the acres and the remaining acres to be set aside as a buffer. But the board of commissioners rejected that plan.

In 1989, the county attorney determined that the Reahards could build four homes, but the board of commissioners decided again only to allow one home on the 40-acre tract. The Reahards filed a complaint in Florida State court, but the attorneys in Lee County removed the case to Federal court.

In 1990, the Federal district court decided in favor of the Reahards. The court ruled that the Reahards had exhausted all the administrative remedies, that their claim was ripe for adjudication, and that a taking had occurred. The jury awarded the couple $700,000 for the lost use of their land and for their legal costs.

But, Mr. Chairman, this is not the end of the story. Between 1992 and 1994, Lee County twice appealed the case to the U.S. Court of Appeals for the 11th Circuit. The first time, the circuit court remanded the case to the district court to revisit the ripeness issue. The district court again found that the issue was ripe and the jury award was reinstated.

Lee County again appealed to the 11th Circuit. On the second appeal, the circuit court decided that the Reahards had not exhausted their State court remedies and that the district court should not have heard the case in the first place.

By 1997, the Reahards' case was back in State court. The Lee County Circuit Court ruled that a taking had occurred and the jury awarded the Reahards $600,000 plus $816,000 in interest dating back to 1984.

□ 1145

In addition, the jury awarded attorney's fees and other costs to the Reahards. Lee County has appealed the case to Florida's Twentieth Judicial Circuit Court of Appeals where it is now pending. If the appeals court upholds the lower court's ruling and jury award, Lee County will owe the Reahards close to $2 million. Was this 13-year-long costly legal battle really necessary?

A major issue in this case was whether a final decision had been reached by the local authorities and if the case was, therefore, ripe or ready for review by a Federal court. The bill we have before us today, H.R. 1534, clarifies this issue by defining what constitutes a final decision, yet it leaves intact several layers of review by local authorities.

Under H.R. 1534, a property owner with a takings claim will have received a final decision when, upon filing a meaningful application for property use, a definitive decision regarding the extent of the permissible uses of the property is made. That is, the final decision will occur when the property owner has received a final decision, upon the filing of a meaningful application for property use, a definitive decision regarding the extent of permissible uses of the property.

When local law provides for an appeal process by administrative agency, the applicant must receive one denied appeal to have a final decision. If the local authorities render an opinion on what the applicant was turned down for, the applicant must then reapply incorporating those comments.

In addition, where local law provides for review by local elected officials, the applicant must also receive a decision from those officials. A clarification of this issue with regard to ripeness will reduce legal costs for both property owners and local governments who will now, under this law, know when and where to file these cases.

The suggestion has been made that this is a partisan bill. This is not a partisan bill. This is a bipartisan bill. There are nearly 50 Democratic cosponsors. This is addressing a very real problem that affects property owners all across this country. I urge my colleagues to support the bill.

Just to conclude on the point, this is a very real issue that is affecting property owners all across the country. In most zoning cases, this sort of abuse does not occur. But it occurs all too often. And when it takes place, it imposes an unreasonable burden on the property owner. It can end up imposing significantly greater costs on the taxpayers who end up having to pay the interest costs that are incurred while these cases drag on, and drag on, and drag on.

I believe that the House has a responsibility to address this issue. This is being addressed in a bipartisan way.

The manager's amendment, as I understand it, has attempted to address the concerns that have been raised by various folks who have raised issues about the bill. I believe that the bill that is before the House strikes a balanced approach that takes into account the concerns of local governments, but also recognizes that the property owner has some rights that need to be protected and the property owner has to be able to get to court to do that.

I thank the gentleman for yielding me the time. I urge my colleagues to support the bill.

Ms. LOFGREN. Mr. Chairman, Mr. Butterworth, the attorney general of Florida, does oppose this bill. The prior speaker may not have been aware of that.

Mr. Chairman, I yield 4 minutes and 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman, a member of the Committee on the Judiciary and Representative from California, for yielding me the time.

This is an important issue. None of us, Mr. Chairman, would in any event be opposed to the fairness as it relates to the fifth amendment and the whole

question, if you will, of property rights. But let me rise to share my concerns concerning H.R. 1534, the Private Property Rights Implementation Act of 1997.

It is not a sheer case, as the previous speaker has indicated, of vindicating those property owners who want to pursue their goals of development. It is a question of sidestepping State and local governments, very compelling interests of zoning and protecting the rights and interests of their citizens who would be less empowered to fight intrusion and development that they may not want.

Let me also say how supportive I am of my friends in the building industry and the many good works that they have done dealing with building housing and my intent is to work with them through this process. However, I think this legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal courts with respect to claims made under the takings clause of the fifth amendment and in doing so increases the ability of Federal courts to accept jurisdiction over local land use matters.

This is a difficult proposition to propose. This says that the local elected officials, the people duly elected by the State's citizens and the city's citizens can be usurped. Proponents of this legislation argue that this bill is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that under current law landowners trying to defend their property rights are frequently snarled up in courts for years. Sometimes this is burdensome. I am concerned, however, that the bill may not correct a solution.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primary powers of local and State officials in land use matters by effectively taking control of local land use away from State and local governments and, if Members will, putting a speeding train across the finish line into Federal courts.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities. As a former member of a city council, local government, we have on many occasions been able to dialog and compromise on some of these very ticklish issues. This would be hampered by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis.

For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to go to Federal court. The cost of litigating this issue would overwhelm many small towns, counties, and cities.

Under this bill, the case could even proceed if negotiations regarding the alternative developments were ongoing. This smacks right in the middle of disrupting local government and their ability to reason and to work with the developers and others in these very difficult issues.

Right now I am facing a situation where there is major pollution by a large corporation in my community and obviously they are in Federal court, and it puts the burden on these neighborhoods who are trying to fight against this pollution. This bill is likely to result in a significant increase in Federal judicial workload, a particular problem given the high number of vacant judgeships.

According to a recent Congressional Research Service report, there is a sound argument that H.R. 1534 will result in a significant increase in the caseload of the Federal courts particularly from takings litigation. I believe the Boehlert amendment will improve this legislation.

This amendment limits the effect of the bill to takings claims brought about against the Federal Government and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In doing so, the Boehlert amendment answers some of the concerns of those Members who are concerned about the burdensome legal process. So I am supporting the Boehlert amendment.

Let me also acknowledge that this does not give the same kind of protection to those who are fighting civil rights violations. Therefore, I find this to be contradictory and hypocritical at best. Also, I wanted to note that in the Washington Post and the New York Times, both of these have labeled this legislation as undermining local government.

We find that the League of Cities, Conference of Mayors, and 40 State attorneys general are against this and this gives developers and property owners who have a wealth of money an imbalance against small towns and counties and cities who fight every day to protect their citizens. I think we can work out some of these problems. This is not the right legislation to go forward.

Mr. Chairman, I would offer to say that my colleagues should oppose this legislation. Let us go back to the drawing boards and really work out a solution.

Mr. Chairman, I rise today to share my concerns regarding H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal Courts with respect to claims made under the takings clause of the fifth amendment and in so doing increases the ability of Federal courts to accept jurisdiction over local land use matters.

Porponents of this legislation argue that H.R. 1534 is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that, under current law, landowners trying to defend their property rights are frequently snarled up in court for years. I agree with my colleagues that such a delay is overly burdensome. I am concerned, however, that H.R. 1534 may not be the correct solution to this problem.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primacy of local and State officials in land use matters by effectively taking control over local land use away from State and local governments and putting that power into the hands of the Federal Government.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities, by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis. For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to bring suit against that town in Federal court. The costs of litigating this issue would overwhelm many small towns and counties. Under this bill, the case could proceed even if negotiations regarding alternative developments were ongoing, even if there was an insufficient record available for the Federal court to make a reasoned takings decisions, and even if there were important unresolved State legal issues.

H.R. 1534 is also likely to result in a significant increase in the Federal judicial workload, a particular problem given the high number of vacant judgeships. According to a recent Congressional Research Service report on the legislation, ''There is a sound argument that H.R. 1534 will result in a significant increase in the Federal courts, particularly from takings litigation.''

Another very important concern with H.R. 1534 is that it unfairly identifies one type of action for violation of Federal rights—property takings under the fifth amendment—for favored consideration in Federal courts, while ignoring all other types of procedures where abstention may apply. For example, abstention has been held appropriate in section 1983 actions involving the sixth amendment right to counsel, conditions of confinement at a juvenile facility, the denial of Medicare benefits, gender-based discrimination, and parallel State-court criminal proceedings. Are the rights of property developers more important then the life, liberty, and other civil rights of Americans including claims regarding personal property and intangible property? If not then why should the claims of land developers be given priority treatment in our Federal courts when Federal courts abstain from deciding other civil rights claims that are at least as valid and important?

In light of these problems with H.R. 1534, I urge my colleagues to join me in supporting the Boehlert amendment in the nature of a substitute. The amendment limits the effect of the bill to takings claims brought against the Federal Government, and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In so doing, the Boehlert amendment answers the concerns of those Members who are concerned about the burdensome legal process that many landowners have encountered and yet have long advocated the importance of State and local government authority.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I want to thank my friend from North Carolina for his work on this legislation.

Let me assure everyone that this legislation received a full hearing in Committee on the Judiciary. The concerns that have been expressed have been adequately addressed in the legislation and I rise in strong support of the Private Property Implementation Act. I believe it is important. There are two fundamental principles that are at issue and are at stake in this legislation.

First of all, there is the constitutional principle that the Government cannot take your property without just compensation. This was learned when we studied the Constitution at an early age. It has been preserved in our history and it is one of the most important constitutional principles that we have. The second principle that is at issue in this legislation is that constitutional rights are to be protected in Federal court.

As an attorney in private practice for almost 20 years, I brought into Federal court due process claims, first amendment claims involving freedom of speech, freedom of association, freedom of religion. In Federal court they deal with constitutional claims regarding unlawful seizure. The Federal courts, though, have set up a particular burden for anyone who is asserting the constitutional principle that property should not be taken without just compensation. That is the abstention doctrine, that the Federal courts have to refrain from that, they refer it back to State court.

It creates a tremendous burden on the homeowner, the property owner who desires to protect their rights. So the constitutional principle of private property rights has been diminished and I believe put below other constitutional rights because of this doctrine and the hesitancy of Federal courts to consider this type of case.

The purpose of this legislation is to restore the protections to the property owner. In Arkansas, I assure my colleagues, this is an important constitutional right that must be protected. This legislation maintains an appropriate balance, protecting the rights of the city and the municipality in their zoning laws, but yet at the same time looking out at the protection of the homeowner. Under the bill the landowner must go through the usual appeal process, but when court action is necessary, then they are assured of access to the Federal courts.

The objection that has been raised today is the Federal courts are too busy. It will result in a crowded docket. I believe that the Federal court should never be too busy to hear constitutional cases, to hear constitutional claims, claims that involve constitutional rights, whether it be freedom of speech, whether it be freedom of association, or whether it be the protection against unlawful taking of private property.

For that reason, I support the legislation. It preserves important constitutional principles. It preserves a balance between the desire to zone property, but the desire to give homeowners the property protection from unlawful taking. For that reason I support this legislation.

Ms. LOFGREN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Chairman, this is an extraordinary day. My Republican colleagues are trying to federalize a whole bunch of State activities and State procedures and to impose Federal law both on the subject of rights and on the subject of procedure upon local units of government, a remarkable activity in view of all the talk I have heard on this side about devolution.

Here are the questions that are potentially to be brought into the Federal court. Whether a community is going to permit a house of ill-repute, a place for nude dancing or adult book stores to be established in a particular area, whether there will be glue factories, slaughterhouses, nuclear waste dumps or hazardous waste dumps or, indeed, ordinary municipal dumps established at a particular place.

These are hardly rights that should be litigated in a Federal court. This includes whether bars, crack houses, opium dens and places where narcotics, illegal drugs and illegal activities of all sorts are conducted. The question of whether activities which constitute a clear public nuisance, as interpreted by the States and the local units of government, will be permitted in a particular area, and if the person or the entrepreneur who wishes to engage in these kinds of activity feels he is not going to get fair treatment in a State court or in the State-administered procedure, he rushes to Federal court where the Federal judiciary has then got to take up the important question, for example, of whether nude dancing should be permitted near a church or whether a bar may be located within 100 yards of a school or whether some other kind of action, long known and long viewed as being noxious and obnoxious to the public interest and to the concerns of the people in the area will be permitted.

□ 1200

And it will be done in Federal Court, not the State court, not in the court where people are closest to the people in the community.

Now, the Constitution protects the rights of all, the property rights and other rights. There is a long history of how these rights are protected in State and Federal court, and there is an intelligent and a sensible way in which these questions have been and can be reviewed.

The procedure and the jurisprudence is clear. The courts have defined this process for years, and the process is defined to protect the property owner, to permit him to use his property in an intelligent and beneficial manner. It is, however, also arranged so that the rights of honest citizens who might live in the neighborhood will receive protection.

Now, let us vision this. An individual wishes to create a deep injection well into the subsoil. The citizens object. The question under this legislation is federalized. Citizens cannot go through the normal procedure. And the result is that the Federal courts all of a sudden have a question of great local concern without any real awareness or any real sentiment of closeness to the people who are involved.

Is that a good result? Is that the result we want? And is that a result which we want at a time my Republican colleagues are telling us how important it is that these matters should be decided at the local level? I think this is insane.

The question of whether or not the local governments are proceeding correctly now under the laws and the Constitution is settled, clear, understood and sound jurisprudence. They decide the question on the basis of appropriate proceedings where all parties are afforded an opportunity to be heard, then the matter can be elevated and is subject to suitable and appropriate judicial review. And the people in the process, if they deal with it incorrectly, either in the administrative process or in the courts, the courts then are subject to having the matter reviewed in Federal court. This is sensible, intelligent protection of the rights of all.

But remember that we are addressing questions which involve a difficult balancing of the rights of the property owner and the rights of the citizen. What my colleagues are saying to the citizens, if we adopt this legislation, is that the question of whether a nuclear waste dump or a slaughterhouse or a glue factory or a rendering plant or a nuclear waste dump or a house of ill repute is now a matter of Federal concern; that a bar or a place where illegal activities are a public nuisance, or a place where nude dancing is permitted is a question that is an essential Federal right that goes immediately to the Federal courts for consideration by the Federal judiciary.

I think this is the worst and most intolerable kind of invasion of the rights of communities, the rights of States and the rights of ordinary citizens that this body could construct.

Mr. COBLE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. GALLEGLY], the principal author of the legislation before us.

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

Mr. GALLEGLY. Mr. Chairman, government bodies may have legitimate reasons for restricting the use of private property, for local zoning, environmental protection and other purposes. Most government agencies use these powers very responsibly. However, sometimes they do not. And when a government body infringes on an individual's rights as guaranteed under the Constitution, that person should have their day in court to defend those rights.

That is what this bill is all about, giving property owners their day in court, not on choosing sides in takings.

I think the need for this bill is also demonstrated by the broad support we have received here in the House. H.R. 1534 to date has 239 bipartisan cosponsors. Of these, 44 Members happen to be Democrats.

The bill specifically states that nothing in H.R. 1534 would change the legal arguments or whether a landowner deserves to be compensated for the loss of economic value of their land. Judges would use the same current standards to evaluate the merits of these cases. However, people would not have to wait for years and years to get those merits considered.

The bill applies only in cases in which a Federal claim has been made, not to State cases. The language of the bill makes certain that the Federal courts may continue to abstain their jurisdiction if there is a case pending in a State court arising out of the same operative facts. This provision ensures that H.R. 1534 absolutely does not affect in any way proceedings in the State courts.

Circumstances involving other Federal rights or legislation are given a fair chance to be heard in the Federal courts. For example, Federal environmental laws are readily enforced in the Federal courts. First amendment claims against local governments have no trouble getting a hearing in the Federal courts. Only property rights are routinely dismissed or delayed because of abstention or ripeness.

Let me give my colleagues one example that illustrates this problem extremely well. Earlier this year the Supreme Court ruled on a case brought by Mrs. Bernadine Suitum. Mrs. Suitum was basically denied 99 percent use of her property, which is in Lake Tahoe, CA. She was told she could not build her retirement home or anything else on her lot.

For 8 years, Mrs. Suitum sought to have her request for compensation heard in the Federal courts. However, year after year the Federal judges ruled that her case was not ripe. Only now, after the Supreme Court ruled unanimously in her favor, are the merits of her case being heard.

It never should have taken that long. If Mrs. Suitum could not get the merits of her case heard for 8 years, what chance do other property owners have? Few people have the time or money to fight all the way to the Supreme Court to defend their constitutional rights. So this bill is about equal access to justice for the ordinary landowners and property owners of America.

Mr. Chairman, it is often said that justice delayed is justice denied. I urge my colleagues to support H.R. 1534 to simplify the process our constituents must navigate to defend their personal property rights and their constitutional rights.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL].

(Mr. HALL of Texas asked and was given permission to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Chairman, I rise in support of the private property owners and in support of H.R. 1534.

Mr. Chairman, the fifth amendment to the Constitution guarantees certain private property rights and protections that have been subject to various interpretations by the courts over the years, often at great expense and a great waste of time to private property owners.

For many years the Congress has attempted to secure the rights of private property owners and to clarify the intent of the fifth amendment. In the 104th Congress the House passed legislation that would have curtailed judicial interpretation of the takings clause in the amendment and would have established a formula for the Federal Government to compensate private property owners from Federal agencies limited use of their property. Unfortunately, the Senate did not act on the bill, and private property disputes were left to the discretion of the courts.

However, today we will try again to provide some long-sought relief for private property owners through a bill, H.R. 1534, that would expedite disputes between private property owners and Federal agencies in Federal court. Under current law, property owners often spend years in court—at the local, State and Federal level—in an attempt to prove their case. This bill will give property owners the right to have their case heard in Federal court in a more timely manner, and it clarifies other provisions that will facilitate legal action. The bill does not usurp the authority of State and local governments—but it does help speed up the resolution of State issues.

Mr. Chairman, we have an opportunity to help eliminate the impediments that the courts have placed on the protections offered under the fifth amendment. This legislation will help restore the rights of property owners to due process of law and a timely determination of just compensation for property that has been seized for public use. This is not an issue of States' rights—States will still have authority over State issues. This is a constitutional issue, and I ask my colleagues to join me today in support of H.R. 1534 to help guarantee these constitutionally protected private property rights.

Ms. LOFGREN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in opposition to this bill, and I wish to talk for a minute or two about what this bill is not about, because there is a lot of misinformation out there.

This is not about whether people will be compensated for the taking of their property. People always have been, will continue to be compensated for a taking of property, and that is a right under the Federal Constitution. But this is not about whether the Federal courts only can decide that. State courts have and do and should continue to decide Federal constitutional issues based on who has jurisdiction over those issues and where the lawsuit is filed.

For the Republicans to say to us that somehow we should direct the Federal courts to do this seems to me completely inconsistent with everything that they have said that they stand for. First of all, they have told us that they believe in the devolution of power back to the State and local level. This bill is absolutely counter to that proposition.

Second of all, they have told us that they believe in disputes being resolved at the level of conflict closest to the people. This is absolutely contrary to that proposition.

Third, they say they want these things resolved quickly. Well, we have a backlog in the Federal courts unlike any State in this Union, because the Senate will not let the Federal judges be appointed, and so we are getting further and further and further behind. So to put these cases in Federal Court is going to prolong the process, not shorten the process.

This is a bad idea. State courts can and should resolve these disputes. Federal courts can and should resolve these disputes. The current law allows that to happen right now and we ought to leave it alone.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

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

I am here in Congress because I am absolutely committed to communities being able to achieve livable futures. I was present at the inception of Oregon's landmark land use planning laws, and I spent the last 18 years of my life in local government implementing some of the best and most far-reaching environmental protections in America and, as such, I would like to offer some observations about today's legislation.

First, I am happy that so many of my Republican and business friends acknowledge that there is a legitimate Federal role in local and State land use planning. This is an important milestone for Congress. But I do fear that a number of people are avoiding the true circumstance that occurs in development in many parts of our country.

In the absence of comprehensive land use plans developed by local government with the help of their citizens and business interests, we have a patchwork system that too often employs as a central part legal maneuvering and political pressure. I believe

from the bottom of my heart this is the wrong way to go.

Just because communities have not yet decided to have a comprehensive plan in place does not mean that people can do anything they technically or legally want with their property. Instead, there is an elaborate political legal tangle in most communities. This is an exceedingly inefficient and often unfair way to resolve the important public policy decisions attendant to development.

There needs to be a way to provide incentives to State and local governments to carefully codify their planning objectives in terms of zoning and development requirements, along with cost and fee structures that require development to pay its own way. A combination of sound land use planning and appropriate user fee structures makes good development possible.

I do not fear a wholesale legal assault on behalf of the development community. My experience is that State and local government have at least as many legal resources and opportunities as the private sector. In fact, over the years, I have seen local government better able to defend itself in this fashion than the private sector. We in local government pay our attorneys by the year rather than by the hour.

I look forward to working with the development interests, local governments, and the environmental community as this bill works its way through the legislative process. I do see it as a step forward in the discussion of how we are going to direct and manage growth without undo legal and political wrangling.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume, and note that the Attorney General of Oregon does oppose the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

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

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this bill. In doing so, I do not stand alone. I am reflecting not only my own position but that of the National Governors' Association, most State Attorneys General, 40 at last count, the Judicial Conference of the United States, chaired by Chief Justice Rehnquist, the National League of Cities, the U.S. Conference of Mayors, and every single environmental group who view this issue as of such magnitude that they are going to double score it.

It is an unusual coalition and they have come together on this for good reason. The reason is simple: This bill violates the most basic principles of federalism. That is just as true of the manager's amendment as it is of the original text. That is not, as some say, a narrow procedural fix. Far from it. Would all these groups be arrayed against powerful developers if the bill was a narrow procedural bill? I doubt it.

The bill would fundamentally alter the balance between localities and the Federal Government, between developers and neighborhoods, between the legislative and the judicial branches. The bill would overturn a 7-to-1 Supreme Court decision, a decision in which all the conservative justices of the time, Burger, Rehnquist, O'Connor, concurred.

Make no mistake about it, H.R. 1534 represents a fundamental shift in American law and will rob communities of the opportunity to determine their own destinies.

□ 1215

Forget about legal doctrine for a minute. Let us look at the practical impact of the bill. It basically removes any incentive for a developer to negotiate with a community because the developer will always be able to threaten to take the community immediately into Federal court. That will change the look of every single community in this country. Think about it.

Now, supporters of the bill sometimes say, ''We're just making sure that the fifth amendment claims can get to Federal court.'' We think fifth amendment cases should get to Federal court, but the Federal court cannot determine if the fifth amendment has been violated until they know exactly what a zoning board would allow, exactly how much a local action reduced property values and exactly what compensation was offered. Bringing Federal courts in prematurely, as this bill does, simply allows Federal judges to substitute their judgment for the locality's before all the facts are in.

Again, do not take my word for it. Here is what the Judicial Conference of the United States says: ''The bill would alter deeply ingrained federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local levels.''

Here is what the National Governors' Association wrote in a letter signed by Governor Voinovich of Ohio: ''The result will be substantially more Federal involvement in decisionmaking on purely local issues.'' Listen to the experts who do not have a financial interest in the outcome of this bill. This bill says we do not trust local governments. This bill says devolution; that is, sending authority from the Federal Government to the State and local governments, is a cockamamie idea. This bill says all wisdom is vested in Federal courts, not in State and local courts. I urge opposition to H.R. 1534 unless the sensible Boehlert amendment is passed.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman for yielding me this time. There is some controversy on this bill. I was able to pass an amendment when it was offered on the floor 2 years ago. People may argue about limiting, causing damage to private property and wanting to compensate them for it. I believe when the Federal Government takes an action which limits the use of or damages the property of a citizen, the Federal agency should in fact be responsible for ensuring they be made whole. No action do them.

I support the bill, but I do not believe this bill in its current form really is in the total best interests of all of the people we represent. Not all of our constituents have accountants and attorneys. If this bill becomes law, those big corporations and all those people have all those legal eagles and they are going to advise them exactly what to do and what is available to them and how to go about it, but the average citizen may not even know there is an action taken which may have in the future caused them to lose money.

My amendment says that when a Federal agency takes an action that causes an American to have their property use restricted or to lose value, that the agency shall give notice to the owners of that property explaining their rights under the law and then, second of all, the procedures that they can use for obtaining any compensation if they are eligible for it.

Now, if this is not fairness, I want someone to tell me what fairness is. This language was accepted overwhelmingly on the House floor during the debate 2 years ago. It ensured that every private citizen and property owner would be afforded the same types of procedural rights and protections as do those people that can afford to hire attorneys and accountants. I would like to ask the Congress that, in the wisdom of the Congress, under unanimous-consent order to allow this amendment to be offered on the floor for an up or down vote. That, I ask. I hope that that opportunity would be made available. It makes the bill better. From what I understand, the sponsor of the bill is in support of that language and I see no opposition.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in opposition to this bill. I want to speak specifically to some of those cosponsors, because I got close to cosponsoring this bill until I read it. Frankly what this bill is is a fast track for developers. It is a fast track that allows them to bypass the local zoning process.

Look at this. This bill is opposed by the National League of Cities, by the National Mayors, and by the National Governors' Association. Why? It is because this bill allows that usurpation or that bypassing of the local process. What does that do? First, it is going to cost local governments a lot more money to have to defend these cases.

Remember, this case is driven by the property owner and the property owner in this case is sponsored by the Homebuilders Association. This is not the little lady in tennis shoes who we often talk about that may have conditions placed on the development of her house and therefore you have got a takings issue. What the sponsor did not tell you is that in California, the State he represents, there is in the State constitution a protection of takings issues. There is a protection in the national Constitution.

So there is nothing here that is broken. The only thing that is broken is the fact that people do not like zoning conditions, use permits, and conditions placed upon those use permits on their property.

As the gentleman from Michigan [Mr. DINGELL] indicated, you could do all kinds of things. You could complain that if you were a liquor store owner that you wanted to put your liquor store next to a high school because that local zoning may prohibit that. You could complain because you would not be allowed to put your waste dump in a residential neighborhood. Those are all issues that would generate takings issues.

I think that this body ought to wake up and listen to a former Speaker who said all politics is local. In this case, leave those politics local. Oppose this legislation, join the National League of Cities, the U.S. Conference of Mayors, the National Conference of State Legislatures, and the Judicial Conference of the United States and the President, who will veto this bill if enacted the way it comes to the floor. I oppose H.R. 1534.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in support of this bill. I want to bring to Members' attention a single case in Louisiana, 20 years old now, a Corps of Engineers levee project. The corps denied the project in 1976. The landowners overturned it. It went to court over and over again. Eventually the EPA exercised veto authority in 1985, denying the landowners' rights. When the landowners finally filed suit following that veto exercise in 1985, which they contested in court additionally, the court ruled that the 6-year statute of limitation had passed and they no longer had a right to file a claim for takings.

Now, get this. They were in court for all these years, from 1976 to 1985. When they finally lose their case in 1985, EPA vetoes the project and therefore their land is taken from them, all viable use has been taken away. The court then rules that the 6-year statute of limitation is over and they should have filed years ago for the taking when they did not know a taking had yet occurred. They eventually had that decision overturned.

It is 20 years and these property owners have not yet received relief. This bill is vital. It will end litigation, consolidate it and protect procedural rights of property owners in America.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I appreciate the gentlewoman yielding me this time. Mr. Chairman, I served as a city counselor in Portland for 6 years and as mayor of the city of Portland. I was also an attorney. So I have a perspective, I think, on this issue that I want to share with other Members.

First of all, in cities like mine, we have perfectly appropriate and sound local zoning practices. I would argue that most communities, a great many communities in this area, do very well. Second, I would say this. Although if you look around the country there is a variation between how quickly you can move through State court and how quickly you can move through Federal court, at least in my State it is more time consuming, more expensive to go to Federal court, more complicated.

I would just say to Members of this House, we have heard over and over again the urging of Members of this House to push more responsibility back to the State and local governments. We have also heard concerns about the Federal courts. What are we doing with this bill? We are pushing local land use disputes into the Federal courts so they can be dealt with there.

That is why the National Governors' Association, the National League of Cities and the U.S. Conference of Mayors are all in opposition to this bill. This bill, as they say, would give parties to a local property dispute immediate access to Federal courts before State and local processes have a chance to work. I do not think that yields better government for us here in the Congress or for our taxpayers back home.

The distinguished gentleman from California, the sponsor of this bill, said it would provide equal access to justice for ordinary landowners. I dispute that. I agree with the gentleman from California [Mr. FARR], who said this bill is fast track for developers. We should not pass this bill. The Founding Fathers never intended the Federal courts as the first resort in resolving community disputes among private property owners.

Mr. Chairman, I include for the RECORD the letter dated October 21, 1997 from those three groups, the National League of Cities, the National Governors Association, and the U.S. Conference of Mayors.

The text of the letter is as follows:

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS,
October 21, 1997.

DEAR MEMBER OF CONGRESS: We are writing to express our strong opposition to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997. We assure you that state and local elected officials are deeply committed to the protection of private property rights. However, by preempting the traditional system for resolving community zoning and land use disputes, this bill would undermine authorities that are appropriately the province of state and local governments and create a new unfunded mandate on state and local taxpayers. We urge you to vote against H.R. 1534.

This bill would give parties to a local property dispute immediate access to federal courts before state and local processes have had a chance to work. The result will be substantially more federal involvement in decision making on purely local issues. This represents a significant infringement on state and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to state and local governments as we are forced to resolve disputes in the federal judiciary instead of through established state and local procedures.

In our view, the Founding Fathers never intended the federal courts as the first resort in resolving community disputes among private property owners. Rather, these problems should be settled as close to the affected community as possible. By removing local disputes from the state and local to the federal level, H.R. 1534 violates this principle and undermines basic concepts of federalism.

For these reasons we urge you to oppose H.R. 1534.

Sincerely,

GOV. GEORGE V. VOINOVICH,
Chairman, National Governors' Association.

MARK SCHWARTZ,
Councilmember, Oklahoma City, President, National League of Cities.

MAYOR PAUL HELMKE,
City of Fort Wayne, President, U.S. Conference of Mayors.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, I rise in strong support of this bill. Today we have an opportunity to open the courthouse doors to America's private property owners who are clamoring outside, hoping to gain entrance merely to exercise their constitutional rights.

At one time in our Nation's history the property rights of individuals were sacred. In our Constitution the Founding Fathers provided that that no person shall be denied of life, liberty, or property without due process, nor shall private property be taken for public use without just compensation.

But increasingly local, State, and Federal Governments have overlooked the Constitution and placed more and more restrictions on land use in a manner that ignores rather than protects the interests of those who own the land. In these situations, it is only right that landowners have a fair opportunity to challenge the decisions of governmental bodies in court. But instead their access to justice is routinely denied. In fact, only 20 percent of takings cases successfully weave their way through the procedural obstacles that await them in a journey that takes an average of 9½ years to navigate.

Mr. Chairman, this bill sends a message to Federal courts that they can no longer willingly ignore takings cases. In effect, the bill will give private property owners their day in court and finally put the decision within their view.

Ms. LOFGREN. Mr. Chairman, noting that the attorney general of Ohio is opposed to the bill, I yield 1½ minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlewoman for yielding me this time. I wonder if we might send the Sergeant at Arms out around the House buildings to search for conservatives. We seem to have lost our conservative grounding in this Congress, after all of the protests that we have heard over the last, almost 3 years, about the importance of returning power to the States, about mistrust of Federal judicial activism and on and on and on. Here we have this piece of legislation that will run exactly counter to the presumed doctrine of the majority party, inviting judicial activism by the Federal courts, interposing Federal intervention as the first resort rather than the last.

□ 1230

I am absolutely bewildered by this. I wonder whether the subtitle of this legislation ought to make some reference to the fact that Lewis Carol has been installed as honorary chairperson of the Committee on the Judiciary. This bill certainly represents Congress through the looking glass, in which all notions of what had been true and upright have been turned on their heads. And we are now presented with this proposal from the majority that really makes a mockery of what we thought they stood for, and what really most of us stand for, in terms of local control, the determination of local matters of land use by the authorities that are most competent to deal with the issue.

Mr. Chairman, after carefully reviewing H.R. 1534 as reported by the Judiciary Committee, I've come to the conclusion that it is not a good bill, and that we should not pass it.

It's true that this bill takes a different approach than did the so-called private property or takings legislation considered in the last Congress. This bill, at least in form, is a procedural measure, not one to revise the basic substantive law in this area. But that's about the best that can be said for it. Just because it's procedural doesn't mean that it's not a far-reaching bill. In fact, it's a radical measure.

It's radical in the way it would nationalize decisions about matters that directly affect our constituents—decisions about every neighborhood and every community.

It's radical in the way it would take those decisions out of the hands of legislators and even State judges and entrust them to Federal judges—even though some of our colleagues who are supporting it have been outspoken about their fervent desire to reduce, not enlarge, the role of the Federal Government.

And it's radical in the way it would promote Federal litigation, rather than encouraging local resolution of these local issues in ways that emphasize accommodation and that don't involve the considerable expense—including legal fees and other costs—of going into Federal court.

It's because it is such a radical measure that it's opposed by the attorney generals of 37 States. As they've written to Chairman HYDE, the bill invades the province of State and local governments and * * * literally compels Federal judges to intrude into State and local matters.

The bill is also opposed by many other groups, including the National League of Cities and the U.S. Conference of Mayors. I have received letters in opposition from the mayor of the city of Boulder, CO, and every member of the Denver City Council. Under general leave, I will include those letters at the end of my statement; for the moment, I'll just share two of the points they make.

In her letter, Mayor Durgin says:

> The city of Boulder works very hard to balance the controls it must place on private property owners, creating win-win situations. . . . In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder. . . . By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces the incentive for private property owners to participate in negotiated land use solutions. . . . Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare. . . . This is a grave threat to the delicate balance of public and private interests which the state and federal court system has struck in the land use arena.

The letter from the Denver Council members also puts it well. As it says, ''our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to State courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a State with a particularly powerful tradition of local control and home rule on land use matters. The bills currently before the House and Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado and would also contradict the recent trend in Congress to devolve power to State and local government.''

For another perspective, last week I asked Judge John L. Kane, one of the senior judges of the U.S. District Court in Colorado, to take a look at this bill and tell me how it would affect him and his colleagues.

His response made some very telling points about the language of the bill, parts of which he described as ''the sort of statutory language that gives judges fits and subjects them to accusations of 'judicial activism' when they try to determine what, if anything such language means.''

For example, he asked, ''what is 'one meaningful application'? Is it one that complies with the rules and regulations of the agency to which it is addressed? Is it one that is grammatically sensible? or decipherable? Or filed on time? Who determines whether the prospects for success are 'reasonably unlikely'? What does reasonably unlikely mean? Courts do not intervene. What is meant by 'intervention by the U.S. Court of Federal Claims is warranted to decide the merits''? Who decides what is warranted and by whom? What is meant by 'merits'? These and other terms appear throughout the proposed legislation and no definitions of procedures are presented.''

''I think,'' he said, ''the proposed legislation needs to go back to the drawing boards.''

As to how the bill might work in practice, should it actually become law, Judge Kane said that even if Congress were ready to destroy time-honored concepts of federalism, separation of powers, and finality of judgments, by passing this bill, it would not achieve its goal for what he called ''very pragmatic reasons.'' Here's what he told me:

''First, there aren't enough Federal judges and magistrates in the country to handle the anticipated caseload for the zoning cases alone that would come into Federal court, even if they did nothing else. In addition, the present wording of H.R. 1534 would encompass State forfeiture cases, condemnation cases, and nuisance cases.'' * * *

''Second, these anticipated cases would have to take their turn in waiting to be heard: Congress has already decided that criminal cases must receive priority. Given the so-called war on drugs, there are some Federal courts where scarcely any civil cases are tried. Other civil cases including civil rights, employment, and diversity jurisdictional claims must also wait their turn.''

In summary, about the effectiveness of the bill, this senior, experienced Federal judge said, ''The result which has a safe degree of predictability is more, not less, judicial gridlock.''

I think we should pay careful attention to the very serious objections to this bill raised by the attorneys general of so many States and territories.

I think we should listen closely to the many local elected officials who oppose this bill.

And I think we should pay attention to Judge Kane's analysis, and heed his advice. We should not pass this bill—instead, we should send it back to the drawing board.

CITY OF BOULDER
LESLIE L. DURGIN, MAYOR,
October 7, 1997.

Hon. DAVID E. SKAGGS,
Longworth House Office Building, Washington, DC.

Re: House Bill 1534: The Private Property Rights Implementation Act.

DEAR REPRESENTATIVE SKAGGS: I am writing to you on behalf of the Boulder City Council to request that you vote against House Bill 1534, the Private Property Rights Implementation Act, and any similar takings initiatives.

The City of Boulder is extremely sensitive to the impacts that local government actions can have on the rights of neighbors and the rights of property owners to use their land in a manner which suits their needs. The City of Boulder works very hard to balance the controls it must place on private property owners, creating win-win solutions. Often, striking the proper balance between the rights of individual property owners and the interest of the public at large entails thoughtful negotiations between community representatives and private landowners. Boulder's present vested rights and land preservation agreement with IBM is an outstanding example. In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder.

Takings legislation, such as House Bill 1534, threatens to undermine the current relationship between private land owners and local governments. By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces

the incentive for private property owners to participate in negotiated land use solutions. This includes the opportunity to address takings claims through local administrative procedures. Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare against the private actions of individual landowners. This is a grave threat to the delicate balance of public and private interests which the state and federal court system has stuck in the land use arena.

Finally, the City of Boulder notes that the federal government has given a great deal of attention in recent years to the notion of federalism. This is the principle that the federal government should only interject its authority in matters which are of a peculiar interest to national concerns. Clearly, the individual disputes between local governments and private landowners rarely have national implications, and the federal courts are properly loathe to become local planning boards of appeal. The Hamilton Bank precedent that House Bill 1534 seeks to overturn stands for that very proposition. Local administrative procedures and state court actions are sufficient to rectify most improper limitations on private property rights. It is at these levels that takings claims should first be adjudicated, with the federal courts serving to hear appeals of cases which are mishandled in the local and state processes. To permit landowners to skirt state and local remedies in favor of the federal court system runs completely contrary to federalist principles.

For the above reasons, the City of Boulder asks you to vote against House Bill 1534 and to oppose any similar takings legislation.

Sincerely,

LESLIE L. DURGIN,
Mayor.

CITY COUNCIL,
CITY AND COUNTY OF DENVER,
October 14, 1977.

Re: S. 1204 ''Property Owners Access to Justice Act of 1997''; H.R. 1534 ''Private Property Rights Implementation Act of 1997''.

DEAR MEMBERS OF THE COLORADO CONGRESSIONAL DELEGATION, As members of the Denver City Council, we are urging your opposition to S. 1204 and H.R. 1534, bills which stand for the extraordinary proposition that federal courts should be much more involved in local land use decisions.

As you know, debates over land use, growth management, and property rights are raging all over Colorado at the moment. Municipal officials are doing their best to balance the rights of developers and the desires of current residents to preserve existing communities and our treasured quality of life, even as growth proceeds at a break neck pace in many jurisdictions. Often our officials find themselves squeezed between two equally sincere factions, both of whom argue for protection of their property values and rights, and both whom may threaten to sue if their rights are not vindicated.

As you are also undoubtedly aware, our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to state courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a state with a particularly powerful tradition of local control and home rule on land use matters.

The bills currently before the House and the Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado, and would also contradict the recent trend in Congress to devolve power to state and local governments.

Before granting plaintiffs and their attorneys easier and earlier opportunities to haul Colorado local governments (and by implication their taxpayers) into Federal courts, please ask yourself one simple question: Where is the empirical evidence to show that local political institutions and state courts have been insufficient to protect the rights of property owners in Colorado?

Thank you for your attention to our concerns. Please let us know if you would like to discuss the matter with us.

Cathy Reynolds, Council President; Dennis Gallagher, Council District 1; Joyce Foster, Council District 4; Bill Himmelmann, Council District 7; Edward Thomas, Council District 10; Ted Hackworth, Council District 2; Polly Flobeck, Council District 5; Hiawatha Davis, Jr., Council District 8; Happy Haynes, Council District 11; Ramona Martinez, Council District 3; Susan Casey, Council District 6; Debbie Ortega, Council District 9; Susan Barnes-Gelt, Council At-Large.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, first of all, I thank the chairman of the subcommittee for yielding me time.

Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation is necessary to protect a basic civil right for all Americans: Protection against governmental confiscation of homes, farms, and businesses.

Today, the fundamental liberties of all of our citizens are threatened by a regulatory regime imposed by Government officials. The Government is able to confiscate the property of workers, farmers, and families without providing compensation.

Adding insult to injury, is a landowner's inability to have their day in court. Not only is the Government taking the private landowner's property, but is using a legal maze to prevent landowners from presenting and receiving a fair hearing on the merits of their case. Without H.R. 1534, property owners will continue to find themselves trapped in a legal nightmare from which they are unable to escape.

Mr. Chairman, I urge my colleagues to support this bill.

Ms. LOFGREN. Mr. Chairman, noting that the Attorney General of Texas opposes the bill, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to express to my colleagues that may be observing this debate that this really is what the gentleman from Colorado referred to as a world turned upside down. This legislation is absolutely outrageous. The unintended consequences are limitless.

I would perfectly agree, especially with the gentleman from Louisiana [Mr. TAUZIN] that if someone's property rights are hindered by a Federal action, that individual should have an expedited process to get to Federal court. But this bill goes way beyond that. This legislation deals with local zoning laws that have nothing to do with Federal action, and they have a major impact on State land use that has nothing to do with Federal action. So what we are doing here is completely taking out of the hands of your local planning commission, their right to decide zoning and land use and what is best needed for their community.

Mr. Chairman, we all want expedited Federal process when a Federal action impedes private property, but this takes the right of a local planning board in a community to have their say about how land is supposed to be used.

Land use, is it to be controlled by the Federal Government, or is it to be controlled by the State? If you think land use is a State issue and a local zoning issue, then you must vote against this legislation.

The idea that if your property is taken away for the public good, you should be compensated, that is absolutely, 100 percent for sure. But if the local government wants to regulate your property and regulate land to prevent public harm on other property, they should have a right to do that.

Mr. COBLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. PRYCE of Ohio) having assumed the chair, Mr. SNOWBARGER, 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. 1534), to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENT AND PERMISSION TO POSTPONE VOTES DURING FURTHER CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 1534 in the Committee of the Whole, pursuant to House

Resolution 271, first, it be in order to consider the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] in the form I have placed at the desk, after the disposition of the amendment offered by the gentleman from Michigan [Mr. CONYERS], as though printed in part 2 of the House Report 105–335, which shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent; and, second, the Chairman of the Committee of the Whole may, (a) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and, (b) reduce to 5 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 15 minutes.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT.

OFFERED BY MR. TRAFICANT OF OHIO

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. COBLE (during the reading). Madam 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 North Carolina?

Mr. BOEHLERT. Madam Speaker, reserving the right to object, I would like to ask a question of the Chair. I have no objection to the Traficant amendment, but I just want to make certain it is clarified when that will occur. Will that amendment come after the Boehlert substitute? If it does, I have no objection. If it does come before the Boehlert substitute, then we have a problem.

The SPEAKER pro tempore. The Chair understands the amendment would be made in order before the Boehlert substitute.

Mr. BOEHLERT. Madam Speaker, I object, I reserve the right to object.

Mr. TRAFICANT. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Madam Speaker, if the gentleman's substitute is passed, then his substitute would pass, with or without. This was approved unanimously. It is the only measure that gives notice to people who do not have accountants and attorneys of some protections, and has been worked out by leadership on both sides. I believe that position would not be in the best interests of our taxpayers and property owners of our country.

Mr. BOEHLERT. Madam Speaker, maintaining my reservation of objection, as I have made clear, I have no objection to the gentleman's amendment, I am in support of that amendment. I do have some serious reservations about when it would appear.

Mr. COBLE. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from North Carolina.

Mr. COBLE. Madam Speaker, I want to ask a question of the gentleman from Ohio [Mr. TRAFICANT] in an effort to clear the cloud.

Would the gentleman from Ohio be willing for his amendment to follow that of the gentleman from New York [Mr. BOEHLERT] since it appears he will object if it does not?

Mr. TRAFICANT. Madam Speaker, if the gentleman will yield further, I do not, as long as if my amendment passes it would be in order to either of the actions taken here today that might pass, if it would be amendable to both.

Mr. BOEHLERT. Madam Speaker, reclaiming my time, maybe we can resolve this. I have had some conversations away from the microphone.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Ms. LOFGREN. Madam Speaker, reserving the right to object, and I will not object. I just want to clarify that the minority supports the desire of the gentleman from Ohio [Mr. TRAFICANT] to debate this amendment. That does not necessarily mean we support the amendment itself, but the gentleman from Ohio's right to offer it, subsequent to the Boehlert amendment.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the request is granted.

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1534.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 1534.

□ 1240

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. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from North Carolina [Mr. COBLE] had 3 minutes remaining in debate, and the gentlewoman from California [Ms. LOFGREN] had 2 minutes remaining.

Ms. LOFGREN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, what happened to the Federalists in the Congress? We were going to empower the States. This is the most extraordinary preemption of local and State laws in my 11 years in the Congress.

This is unbelievable. We heard horror stories from people from States that do not have a regular land use process. Those States should adopt a land use process. Those local jurisdictions should adopt a land use process, and it should be regular. It should have process of appeal and litigation through their States. But not the Federal Government.

Do we want the Federal Government wading into every single local land use dispute? Peep shows next to schools, liquor stores next to high schools? I think not.

I do not think the people on that side of the aisle really believe that. They are playing here to an audience of special interests, very well-funded special interests. This is horrible legislation for small town America. It is horrible legislation for our States and States' rights. Reject this legislation.

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

Mr. Chairman, I believe in the fifth amendment and the minority believes in the fifth amendment. I believe there ought to be compensation when there is a taking, and there ought to be due process. There is no dispute about that. But what we dispute is this remedy. We have heard a lot of discussion about widows who have been abused by the heavy-handed Government. But we need to get beyond that appealing image to what is really going on here.

Zoning protects neighborhoods, zoning protects homeowners, and what this bill does is allow developers rights that are much greater than those that would attach to neighborhoods and to homeowners.

These rights will attach, whether it is 20,000 housing units being built, or whether a town is trying to regulate the hours of operation of a topless bar or pornographic bookstore. That is what is so terribly flawed with this legislation.

Mr. Chairman, I urge my colleagues to oppose this and to search for a more rational response to this problem.

□ 1245

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from Kansas [Mr. RYUN].

The CHAIRMAN. The gentleman from Kansas [Mr. RYUN] is recognized for 3 minutes.

Mr. RYUN. Mr. Chairman, I rise in support of H.R. 1534. Mr. Chairman, one of the pillars of our democracy is the right of every individual to own private property. In 1792, James Madison said this, and I quote: ''That is not a just government nor is property secure under it where the property which a man has in his personal safety and personal liberty is violated by an arbitrary seizure of one class of citizens for the service of the rest.''

Because our Founding Fathers understood this very important principle, they included a guarantee in the Bill of Rights to protect private property owners from politicians and bureaucrats who believe that they know best how to use someone else's lands.

The fifth amendment to the Constitution assures the Government cannot take a person's private property without first providing the owner due process and just compensation. Unfortunately, the fears which motivated our Founding Fathers to include this property guarantee are being realized today.

For example, in the first 10 years after the enactment of the 1983 Rails to Trails Act, trails groups and State governments used that law to take the property from 62,000 landowners. Yet, not one of those aggrieved farmers and homeowners has received a single penny in compensation for their loss.

While courts have ruled that compensation must be paid to the property owners, endless bureaucratic redtape would first require a small Kansas farmer to retain a high-priced Washington lawyer to begin jumping over administrative hurdles. This lawyer would then need almost 10 years of expensive court time before securing a farmer's compensation for his strip of land that was taken to create a recreational trail for others to use.

All we have to do is do a little math, and if the value of a farmer's confiscated land is about $30,000 but a Washington lawyer would charge the farmer $100,000 to pursue the farmer's claim, there is no farmer who will be able to afford any compensation. That is why this private property rights bill, this one particularly, H.R. 1534, is so important. It is our duty as Members of this House, the peoples' House, the House of Representatives, to protect private property owners from arbitrary actions and guarantee their right to due process.

Mr. Chairman, I urge my colleagues to vote ''yes'' for property rights, to vote ''yes'' for due process, and to vote ''yes'' on H.R. 1534.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to H.R. 1534, the Private Property Rights Implementation Act.

Mr. Chairman, last night I brought a germane amendment to the Rules Committee and asked that it be made in order. My amendment seeks to balance this bill with adequate protection for the 65 million Americans that own their own homes. It would have limited the application of H.R. 1534 to States that provide adequate protection for homeowners in this country. All I asked for was 30 minutes to make my case to the Members of this House. My request was denied.

This measure, H.R. 1534, is an end of the session effort to avert full debate on a very important issue, property rights, the rights of special interests not the property rights of homeowners, yet on the floor today the rule was again expanded to accommodate another unheard, unrequested amendment.

I don't know for the life of me why the leadership in this House of Representatives is not willing to spend 30 minutes on the concerns of homeowners. H.R. 1534 is not a purely procedural, noncontroversial bill, as supporters of this bill would have you believe, they are wrong. This bill sides with developers who have made their views clear and, of course, generously contribute to the campaigns of those who support them. This is a new judicial superhighway that places the decisions in Federal courts, out of the hands of local government and State courts.

Ironically, the underlying bill we are considering today does not protect the property of homeowners—the most important investment made by the American family—from adverse actions by State and local government and others. This bill protects developers that may have been unjustifiably or justifiably stymied by local and State courts that are carrying out their own laws and rules. Under H.R. 1534, Congress rearranges this authority and moves it away from local and State governments. It's ironic that a Congress emblematic of devolution initiatives over the past several years are suddenly moving to superimpose such a national policy. The Federal courts, with this new guideline, will be no doubt more friendly to the interests of developers than State and local courts. The handwriting is on the wall as to the expense and policy change that this bill gives developers to easier access, and assure more profitable treatment in the Federal courts.

The real motive I believe is apparent, to first remove local decisionmaking power from communities, States, and the respective courts. And in the future create a wholly new class of takings which will hamstring the United States both State and Federal with a new class of taxpayer payments whenever zoning and the limits of common interest for the common good guide the use of real property to stop pollution, to enhance—their community they would be forced to buy theoretical development rights—this turns the local decisionmaking on its head.

I have drafted an amendment which is very important and seeks to balance this newly proposed policy path. I must admit, Mr. Chairman, I have some interests to worry about, too. They are the property homeowners of St. Paul, of Minnesota, and the Nation—the families that work hard every day and believe in the importance of neighborhoods and communities and their only property is their family homes. My amendment would have sought to at least protect them and their homes. It would have prevented this bill from going into effect in States that have not passed laws that protect homeowners' property rights. These laws will have to provide families with adequate notice when adverse development is moving in to affect their property. The intent was to provide homeowners with guaranteed access to the courts when their property is devalued by harmful developments nearby. I'm not sure anybody would oppose such an amendment. It will significantly improve H.R. 1534 and insures protection of the rights of American families and homeowners. We all have homeowners in our districts, and they deserve this right a priori.

All I asked for, Mr. Speaker, was 30 minutes. Claims have been made we simply don't have time to consider all the amendments that are in order. What I want to know is why we are wasting floor time on legislation that is opposed not just by all the environmental groups. But, Mr. Chairman, this bill is opposed by the National League of Cities, the Conference of Mayors, 40 State attorneys general, and is headed for a certain veto by the President. With a list that long you have to wonder who supports this bill and why. The point is, however, that we are engaged in a futile exercise. If we have the time to consider this bill on the floor, we certainly have time to consider the property rights of homeowners in this country, but the advocates of this legislation obviously feared this germane amendments; that placed homeowners property rights on a par with developer's for who this measure will benefit.

This procedure for debate silences the voices of the 65 million Americans who own their own homes and are concerned about reckless activities that could cause their

most precious investment to lose its value. For these reasons, I urge my colleagues to resoundingly defeat this measure and maintain the protections accorded homeowners by State and local governments, they are far better served at the local level where they have a place at the table than being shut out by this redefined property rights effort in the Federal courts where they are for all practical purpose excluded.

Nr. NADLER. Mr. Chairman, I rise to strongly oppose this bill which would override local zoning procedures, undermine local governments, burden Federal courts, and weaken efforts to protect public health, welfare, and the environment. It is bad policy and ought to be soundly rejected.

The current judicial procedures, which may appear cumbersome, have in fact served to protect communities across the Nation from misguided property use which may have been detrimental to the society at large. This bill will allow those who seek to risk public health, safety, and welfare for private gain to go over the heads of local officials and appeal directly to Federal judges, some of whom may have less understanding and expertise in the issues and concerns of the local community.

We learned while considering this bill in committee that this bill is specifically designed to undermine legitimate efforts to protect pubic health and safety. During consideration of this bill in committee, I offered an amendment to ensure that in cases where public health and safety are involved, the plaintiff cannot circumvent State and local courts to get the Federal courts. And the bill's sponsor rejected it. It appears then that supporters of this bill would deliberately seek to undermine the health and safety of our Nation's communities. That is simply wrong, and more than that, it is shameful.

I also want to mention that it appears that this bill could be used to undermine rent regulation in cities like New York, because it may allow landlords to challenge rent regulation and public housing laws and rulings in expedited fashion in Federal court. Tenants may lack the financial resources, the legal know-how or standing to appear in Federal court to defend their rights. Some have argued that this bill could undermine tenants' rights and threaten to eliminate low- and moderate-income housing in some of our biggest cities.

I urge my colleagues to oppose this bill that would jeopardize pubic health, destroy the environment, and put citizens' lives in danger.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997.

This bill would streamline the court procedures when a case is brought by a private property owner to protect their legal and civil rights as guaranteed in the fifth amendment of the U.S. Constitution. This is a bill that is sorely needed.

As chairman of the Committee on Resources, we have documented in our hearings the many cases where governments assert the right to set aside private lands for the protection of wildlife.

When a landowner wants to sell land and the Government pays for the land, that is legal and an acceptable manner for the Government to protect wildlife.

However, as is happening more frequently, the Government sometimes finds it inconvenient to find the funds to buy the land, so they designate it as habitat for an endangered species.

When that happens, landowners find that they cannot use their land. In the last 2 years, under extreme pressure from this Republican Congress, the Government is beginning a process to allow landowners to use land designated as habitat, but only at a very high cost to landowners.

When landowners cannot afford to go to court to protect their legal and civil rights, the Government can use pressure to take the land from the landowner.

We need to give landowners a more level playing field. We need to ensure that going to court is not so expensive that only the biggest and richest landowners can afford to protect their rights.

A case in point is the Headwaters Forest in California. For years the Government tried to use various forestry laws and the ESA to force the landowner off a portion of its land.

The landowner filed a takings suit in the court of claims and now the Government has come to the bargaining table and offering to pay for the property. This would not have happened if this landowner had not been a large, wealthy corporation with the resources to fight a long and an expensive court battle.

Now some environmentalists are arguing that this bill would increase the number of Federal lawsuits. Some environmentalists are now in the business of filing lawsuits. In the last 10 years, environmentalists have received over $10 million in payments from the Federal Treasury for filing endangered Species Act lawsuits. I believe many of these lawsuits are frivolous and an abuse of the courts, and their numbers are increasing dramatically. For environmentalists to argue against allowing average citizens to sue at the same time they are making a living off their lawsuits is hypocrisy of the highest order. I have a list of environmentalists who have received payments for lawsuits and would ask that it be entered into the RECORD with my testimony.

Let's ensure that the smallest and poorest landowner can have the same rights as the biggest corporation or the environmental groups. Let's pass H.R. 1534 and protect our constitutional rights.

ATTORNEY FEES AWARD BY ORGANIZATION

Name	Court No.	District	Amount
Alaska Wilderness Recreation and Tourism Assoc. v. Gary A. Morrison, et al. (Tongass Nat'l Forest)	94–033	Alaska	$853.20
Bay Institute of San Francisco v. Lujan—Delta Smelt	92–2132	California East	60,000.00
Bay Institute of San Francisco, et al. v. Babbitt—Delta Smelt	94–0265	California East	5,000.00
Biodiversity Legal Foundation v. Babbitt (Categroy 2 Species)	96–641	District of Columbia	10,000.00
Biodiversity Legal Foundation v. Babbitt	95–601	Colorado	1,000.00
Biodiversity Legal Foundation v. Babbitt	95–382	Colorado	8,000.00
Biodiversity Legal Foundation v. Babbitt	95–1815	Colorado	3,500.00
Biodiversity Legal Foundation v. Babbitt (Pending see above)—N. Am. Wolverine	95–816	Colorado	500.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	5,000.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	3,815.00
Biodiversity Legal Foundation, et al. v. Babbitt—Western Boreal Toad	94–1086	Colorado	1,408.19
Biodiversity Legal Foundation v. Babbitt—Selkirk Mountain Woodland Caribou	94–02441	District of Columbia	4,000.00
Biodiversity Legal Foundation v. Babbitt	95–2509	Colorado	3,435.61
California Trout, et al. v. Babbitt (Santa Ana Speckled Dace) (Pending see above)	95–3961	California North	40,000.00
California Native Plant Society v. Manuel Lujan, Jr. (Pending see above)—Plant listings	91–0038	California East	16,678.25
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	2,000.00
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	9,500.00
Citizens Cmte to Save Our Canyons, et al v. USFS, Bernie Weingardt, Dale Boswort (John Paul Area)	95–68	Utah	145.50
Clemmys Karmorata v. USFWS—Western Pond Turtle, Red Legged	93–6135	Oregon	2,522.30
CLR Timber Holdings, Inc. et al v. Bruce Babbitt, et al (Marbled Murrelet)	94–6403	Oregon	40,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	5,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	31,351.90
Colorado Environmental Coalition v. J. Turner—Razorback Sucker	91–1765	Colorado	5,168.40
Conservation Council for Hawaii, et al v. Manuel Lujan and John F. Turner	89–00953	Hawaii	44,635.25
Defenders of Wildlife v. Thomas—Strychnine	Strychnine	Minnesota	122,500.00
Desert Tortoise, et al. v. Lujan—Ward Valley—Tortoise	93–0114	California North	69,000.00
Dioxin/Organi-chlorine Center and Columbia River United v. Dana Rasmussen	91–1442	Washington West	61,500.00
Earth Island Institute, et al v. Manuel Lujan—5 Year Review	91–6015	Oregon	32,338.70
Edward Wilkinson Mudd Jr. v. William Reilly Admin., EPA—CWA/ESA consultation	91–1392	Alabama North	39,000.00
Energy and Resource Advocates, et al vs. Kenneth R. Quitoriano, et al and James D. Watkins (Energy Dept.)—(Purex Waste)	90–2479	California North	10,000.00
Environmental Defense Center v. Babbitt—Red Leggedfrog/salamander	94–0743	California Central	4,074.75
Environmental Defense Center v. Babbitt—Fairy Shrimp	94–0788	California Central	3,815.00
Environmental Defense Center v. Bruce Babbitt—Western Pond Turtle	93–1847	California Central	4,700.00
Environmental Defense Center v. Babbitt—Red Legged Frog	95–2867	California Central	44,511.53
Environmental Defense Center v. Lujan—Tidewater Goby	92–6082	California Central	7,500.00
Environmental Defense Center v. Babbitt—California Tiger Salamander	93–3379	California Central	4,300.00
Environmental Defense Center v. Bruce Babbitt—Southwestern Willow Flycatcher	93–1848	California Central	4,700.00
Environmental Defense Fund v. Lujan—Desert Tortoise	89–2034	District of Columbia	2,237.50
Florida Key Deer, et al v. Robert H. Morris—Fema/Flood Insurance	90–10037	Florida South	130,000.00
Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, Inc., et al. v. Babbitt—Bull Trout Listing	94–0246	District of Columbia	4,500.00
Friends of Walker Creek Wetlands v. Dept. of the Interior—Nelson's Checker Mallow	92–1626	Oregon	12,000.00
Fund for Animals v. Manuel Lujan, et al. (Pending see above) ESA Listings	92–800	District of Columbia	67,500.00
Fund for Animals v. Manuel Lujan (Pending see above) (ESA Listings)	92–800	District of Columbia	24,500.00
Fund for Animals, Swan View Coalition, D.C. ''Jasper'' Carlton (Director, of Biodiversity Legal Foundation) v. Turner—Grizzly Bears	91–2201	District of Columbia	36,000.00
Greater Gila Biodiversity Project v. USFWS—Pygmy Owls	94–0288	Arizona	2,048.91

ATTORNEY FEES AWARD BY ORGANIZATION—Continued

Name	Court No.	District	Amount
Greater Gila Biodiversity Project v. USFWA—Loach Minnow	93–1913	Arizona	11,000.00
Greater Yellowstone Coalition, et al. v. F. Dale Robertson (USFWS)—Grizzly bears	93–1495	District of Columbia	32,750.00
Greenpeace v. Baldridge	86–0129	Hawaii	88,794.01
Hawaiian Crow v. Manuel Lujan—Hawaiian crow	91–00191	Hawaii	195,000.00
Hughes River Watershed Conservancy, et al v. Dan Glickman, et al	1–94–113	West Virginia North	63,367.71
Idaho Department of Fish and Game v. NMFS—hydro transfer/salmon	93–1603	Oregon	8,405.06
Idaho Conservation League v. Manuel Lujan, et al.—Bruneau Hot Springs Snail	92–0260	Idaho	21,166.00
Idaho Conservation League v. Babbitt—White Sturgeon	94–0351	Idaho	5,000.00
Idaho Conservation League, et al. v. Lujan—Idaho Springsnail	92–0406	Idaho	8,000.00
Jeffrey Mausolf, William Kullberg, Arlys Strehlo; Minnesota United Snowmobilers Association v. Babbitt (Wolf/Eagle) (Pending see above)	95–1201	Minnesota	28,821.50
La Compania Ocho Inc., et al v. USFS, et al (Carson Nat'l Forest)	94–317	New Mexico	303,635.67
Marbled Murrelet et al v. Manuel Lujan (Pending see above)—Listing and critical habitat for marbled murrelet	91–522	Washington West	61,109.47
Mountain Lion Foundation v. Babbitt—Santa Ana Mountain Lion	94–1165	California East	6,500.00
National Audubon Society et al. v. Babbitt et al.—Guam species	93–1152	District of Columbia	22,500.00
National Audubon Society v. Lujan—Least Bell's vireo	92–209	California South	7,348.75
National Audubon Society v. Babbitt, et al.—Snowy Plover	94–0105	California South	7,540.61
National Wildlife Foundation, et al. v. Endangered Species Committee, et al	79–1851	District of Columbia	20,000.00
National Wildlife Federation, et al v. Robert Mosbacher (Commerce)	89–2089	District of Columbia	42,500.00
Native Plant Society of Oregon v. U.S. DOI—Oregon Plants	93–180	Oregon	13,046.19
Natural Resources Defense Council, et al. v. Bruce Babbitt—Desert Tortoise	93–0301	California North	262,096.76
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	57,000.00
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	518,000.00
Northern Spotted Owl, et al v. Donald Hodel, et al.—Spotted Owl Listing	88–573	Washington West	56,718.00
Northwest Forest Resource Council v. Dan Glickman (Emergency Salvage Timber Sale)(Pending see above)	95–6244	Oregon	298,144.36
Northwest Coalition for Alternatives to Pesticides v. Babbitt	94–6339	Oregon	10,500.00
Oregon Council of the Federation of Fly Fishers v. Brown (Cutthroat Trout)(Pending see above)	95–1969	Oregon	24,706.49
Oregon Trout Inc., et al v. USFS (Trout Creek Salvage Sale)	96–1460	Oregon	21,400.00
Oregon Natural Resources Council v. Babbitt—Western lily	94–666	Oregon	4,000.00
Oregon Natural Resources Council v. Department of Commerce	93–293	Oregon	16,200.00
Oregon Natural Resources Council v. Schmitten (Steelhead Trout)(Pending see above)	95–3117	California North	120,952.54
Pacific Rivers Council v. Thomas (Pending see above)—Salmon/Umatilla Forest	92–1322	Oregon	165,000.00
Resources Limited Inc., et al v. F. Dale Robertson, et al (Pending see above)—Flathead Forest/Grizzlies	89–41	Montana	47,000.00
			90,000.00
Restore: The North Woods v. Babbitt (Pending see above)—Atlantic salmon	95–37	New Hampshire	5,400.00
Save Our Springs Legal Defense Fund, Inc. v. Babbitt (Barton Springs Salamander) (Pending see above)	95–230	Texas West	72,500.00
Save our Ecosystems, et al. v. Federal Hwy Admin. (West Eugene Parkway)	96–6161	Oregon	2,560.80
Sierra Club and League for Coastal Protection v. John Marsh, et al	86–1942	California South	44,774.16
Sierra Club Legal Defense Fund v. Manuel Lujan	89–1140	District of Columbia	9,000.00
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer** same case but Justice split the fee in four portions	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.66
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	1,550,000.00
Sierra Club, et al. v. Bruce Babbitt, et al.—10 species of plants and animals	93–1717	California South	11,368.76
Sierra Club, et al v. James A. Baker, et al—Turtles??	89–3005	District of Columbia	18,583.72
Sierra Club, et al v. Richard Lyng (Pending see above)—Southern Pine Beetle and Red Cockaded Woodpecker	85–69	Texas East	149,647.50
Sierra Club, et al. v. David Garber, et al	93–069	Montana	55,000.00
Silver Rice Rat, et al v. Manuel Lujan—Silver Rice Rat Listing	89–3409	District of Columbia	19,500.00
Southern Utah Wilderness Alliance v. Bruce Babbitt—Virgin River Club	93–2376	Colorado	8,500.00
Southern Utah Wilderness Alliance v. Morgenweck—Virgin Spinedace	94–717	Colorado	4,200.00
Southwest Center for Biological Diversity v. Babbitt (SW Willow Flycatcher)(Pending see above)	94–1969	Arizona	15,509.11
Southwest Center for Biological Diversity, et al. v. USFWS—Loach Minnow/spinedace	94–0739	Arizona	1,000.00
Southwest Center for Biological Diversity v. Babbitt (Pending see above)	94–2036	Arizona	40,000.00
Southwest Center for Biological Diversity v. Babbitt	94–1946	Arizona	1,971.01
Southwest Center for Biological Diversity, et al. v. USFWA—Jaguar listing	94–0696	Arizona	1,665.00
Southwest Center for Biological Diversity v. Babbitt—Arizona Willow	94–1034	Arizona	5,145.00
Southwest Center for Biological Diversity v. Babbitt (Laguna Mtn Skipper)	96–1170	California South	17,000.00
Dr. Robin Silver et al. v. Babbitt (Pending see above)	94–0337	Arizona	4,000.00
Dr. Robin Silver v. Thomas (USFWS) (Mexican Spotted Owl) (Pending see above)	94–1610	Arizona	231,393.75
Dr. Robin Silver, et al. v. Babbitt (Pending see above)—Mexican spotted owl	94–0337	Arizona	102,418.86
Steven Krichbaum (w/Virginias for Wilderness) & Michael Jones v. USFS, William Damon (GW Nat'l Forest)	96–0108	Virginia West	345.00
Swan View Coalition Inc v. USFS (Flathead Forest/Grizzlies)(Pending see above)	93–7	Montana	23,700.00

Mr. DOOLEY of California. Mr. Chairman, I rise today to express my support for H.R. 1534, the Private Property Implementation Act. I believe this bill takes a new, more modest approach to the issue of property rights and has received widespread bipartisan support. The legislation helps property owners by clearing some of the legal and procedural hurdles that make it both excessively time consuming and expensive to assert their claims. This bill proposes to do nothing except clarify the jurisdiction of Federal courts to hear and determine issues of Federal constitutional law.

H.R. 1534 is vastly different from previous property rights bills. It does not attempt to define for a court when a taking has occurred nor does it change or weaken any environmental law. The bill would have no budgetary impact because, unlike previous bills, it contains no compensation requirement or trigger. Simply put, the legislation amends Federal procedural laws governing the jurisdiction of the U.S. district courts. H.R. 1534 would provide more straightforward access to Federal courts for property owners seeking redress of their fifth amendment rights.

There has been a lot of controversy generated surrounding this bill. More of the criticism of this legislation is based upon the assumption that the bill cuts local governments out of the decisionmaking process when it comes to land use. Nothing could be further from the truth.

The truth is that H.R. 1534 applies only to Federal claims based on the 5th and 14th amendments that are filed in Federal court. The bill creates no new cause of action against local governments. H.R. 1534 is only a procedural bill, clarifying the rules so a decision can be reached faster on the facts of the case instead of wasting taxpayer money on jurisdictional questions.

Local governments will have no new limits on their ability to zone or regulate land use. Local agencies will get at least two, maybe three, chances to resolve a land use decision locally before their decision will be defined as ''final''—once on the original application, once on appeal, and yet again on review by an elected body.

H.R. 1534 doesn't provide a ticket to Federal court—individuals already have a right to go to Federal court. The bill simply provides an objective definition of when ''Enough is Enough,'' so that both parties in a land use dispute can participate in meaningful negotiations. I believe H.R. 1534 represents a moderate approach that Members can and should support. Let's not miss an opportunity to do something that will provide a direct benefit to our constituents.

Mr. NEUMANN. Mr. Chairman, I rise today in support of H.R. 1534—the Private Property Rights Implementation Act. I strongly believe land use decisions should be made at the local level to the greatest degree possible. In fact, this Congress has fought hard to move more Federal programs out of the hands of Washington bureaucrats and into the control of the folks back home. The folks in Wisconsin and other States are better suited to make decisions that affect local areas than bureaucrats in Washington. Nevertheless, there are limitations that exist on local governments to ensure they do not trample on the rights of individuals. Those limitations are embodied in the Constitution and the Bill of Rights.

H.R. 1534 allows a property owner, who feels his or her constitutional rights have been violated, a chance to seek protection in Federal court—the same chance that anyone else would have. H.R. 1534 simply puts fifth amendment protections on par with other constitutional rights.

Those who argue that H.R. 1534 would ''federalize local land use decisions,'' have long supported Federal land use controls to protect the environment. Where is the consistency? Support H.R. 1534 and support the right of all Americans to be treated equally under the Constitution—even property owners.

Mr. GOSS. Mr. Chairman, this is a tough subject, involving the need to balance protection of constitutionally guaranteed private property rights with other constitutional guarantees of public health, safety, and welfare as traditional, legitimate functions of Government.

While I agree this is a subject that needs our attention, and I commend Mr. GALLEGLY for his work in bringing the matter forward, I do have some concerns about the bill we are about to consider.

As a former mayor and county commissioner, I'm particularly interested in H.R. 1534. While the current system we have of layering government an division of authority isn't perfect, I believe it works well and ensures a balanced role for all three levels of government involved in these decisions. We ought to trust the local officials to work through the zoning issues. They're the ones on the frontlines—they deal with these questions every day and are in the best position to be directly responsive to the needs and concerns of the community. Of course, there are poster child examples of the extreme development abuses and cases of egregious takings without compensation.

If there are questions of State law that need to be resolved, we need State courts to decide those issues. If a legitimate takings claim exists, it is critical we ensure landowners their day in court.

We need to maintain for local officials a meaningful opportunity to work with the landowners and other constituents to craft a compromise. In my view, it is not appropriate to have the Federal Government deciding or pressuring local land use questions. In addition, some critics of this bill have argued that the Federal judiciary would be flooded with claims and simply could not handle the caseload that would result if this bill were enacted. For example, the Federal district court for the area of Florida that I represent is already short handed and has a backlog of cases that is measured in years, not just months. I think we need to ensure that any changes to the current system take these concerns into account.

In the end, Mr. Speaker, balancing the right of a landowner to develop his property within the bounds set by the health, safety, and welfare interests of the community is a difficult question—I, for one, do not believe there's any particular magic a Federal court has that can solve these problems and make them go away.

Mrs. TAUSCHER. Mr. Chairman, I am a cosponsor of H.R. 1534, the Private Property Rights Implementation Act of 1997 because I believe that relief needs to be provided to property owners who are seeking finality to their land use plans, and I have become convinced that reform is necessary.

Since cosponsoring the measure, I have heard from opponents, especially many of the local elected officials from the 10th Congressional District, whom I'm proud to represent. I have continued to meet with both advocates and opponents to discuss in depth many of the concerns raised and fully explore the various interpretations of the bill as amended. Earlier this week, I wrote to Chairman HYDE of the House Judiciary Committee with several of my questions and urged him to postpone floor consideration of the bill until these issues are sufficiently resolved. Unfortunately, this measure is before the full House for consideration today and I, despite my support for reform, cannot vote for a measure with such important and potentially far-reaching implications without the time needed to fully explore the ramifications of this amended bill.

As I stated, I want to see a more streamlined and fair process for property owners, and I wish that this body had taken the time necessary in developing a needed reform measure, without overburdening our cities and counties. It is my hope that we can continue to work on this issue in the future to develop a consensus bill that can be supported by a coalition of involved parties.

Mr. PORTER. Mr. Chairman, while I realize that it is too late to formally remove my name as a cosponsor of H.R. 1534, I want to indicate that I do not support this bill in its current form. My initial understanding of this legislation was that its central thrust was to facilitate the ability of aggrieved parties to have Federal question claims adjudicated by Federal judges. However, it is now clear that the bill would significantly alter the abstention doctrine and more importantly, would allege to alter the Supreme Court definition of ripeness. I am concerned that a legislative effort to alter such a constitutional doctrine may be unconstitutional. I support the effort of my colleague, Mr. GALLEGLY, to make reasonable changes to unfair impediments to the consideration of takings claims but, acknowledging the two concerns outlined above, I cannot support this legislation.

Mr. COBLE. 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, as modified by the amendments printed in part 1 of House Report 105–335, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute, as modified by the amendments printed in part 1 of House Report 105–335, is as follows:

H.R. 1534

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Property Rights Implementation Act of 1997''.

SEC. 2. JURISDICTION IN CIVIL RIGHTS CASES.

Section 1343 of title 28, United States Code, is amended by adding at the end the following:

''(c) Whenever a district court exercises jurisdiction under subsection (a) in an action in which the operative facts concern the uses of real property, it shall not abstain from exercising or relinquish its jurisdiction to a State court in an action where no claim of a violation of a State law, right, or privilege is alleged, and where a parallel proceeding in State court arising out of the same operative facts as the district court proceeding is not pending.

''(d) Where the district court has jurisdiction over an action under subsection (a) in which the operative facts concern the uses of real property and which cannot be decided without resolution of an unsettled question of State law, the district court may certify the question of State law to the highest appellate court of that State. After the State appellate court resolves the question certified to it, the district court shall proceed with resolving the merits. The district court shall not certify a question of State law under this subsection unless the question of State law—

''(1) will significantly affect the merits of the injured party's Federal claim; and

''(2) is patently unclear and obviously susceptible to a limiting construction as to render premature a decision on the merits of the constitutional or legal issue in the case.

''(e)(1) Army claim or action brought under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to redress the deprivation of a property right or privilege secured by the Constitution shall be ripe for adjudication by the district courts upon a final decision rendered by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State of territory of the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken

''(ii)(I) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism for appeal to or waiver by an administrative agency; or

''(II) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the disapproval explains in writing the use, density, or intensity of development of the property that would be approved, with any conditions therefor, and the party seeking redress has resubmitted another meaningful application taking into account the terms of the disapproval, except that—

''(aa) if no such reapplication is submitted, then a final decision shall not have been reached for purposes of this subsection, except as provided in subparagraph (B); and

''(bb) if the reapplication is not approved, or if the reapplication is not required under subparagraph (B), then a final decision exists for purposes of this subsection if the party seeking redress has applied for one appeal or waiver with respect to the disapproval, which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism of appeal or waiver by an administrative agency; and

''(iii) in a case involving the use of real property, where the applicable statute or ordinance provides for review of the case by elected officials, the party seeking redress has applied for but is denied such review.

''(B) The party seeking redress shall not be required to apply for an appeal or waiver described in paragraph (1)(B) if no such appeal or waiver, is available, if it cannot provide the relief requested, or if the application or reapplication would be futile.

(3) For purposes of this subsection, a final decision shall not require the party seeking redress to exhaust judicial remedies provided by any State or territory of the United States.

''(f) Nothing in subsections (c), (d), or (e) alters the substantive law of taking of property, including the burden of proof borne by the plaintiff.''.

SEC. 3. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but

was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2) For purposes of this subsection, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile.

''(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''

SEC. 4. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

''(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile. Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except a further amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS], or his designee. That amendment shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

If that further amendment is rejected or not offered, no other amendment is in order except, No, 1, the Traficant amendment made in order by the House today; and, No. 2, the amendment printed in part 2 of the report, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on the Traficant amendment made in order today by the order of the House, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows that recorded vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in that series of questions shall not be less than 15 minutes.

The Conyers amendment not being offered, for what purpose does the gentleman from Ohio rise?

AMENDMENT OFFERED BY MR. TRAFICANT

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

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. Chairman, I support, in principle, the fact that when a Federal agency takes an action that limits the use of private property or causes the damage in property values that compensation is in order, and proper procedures affecting those goals shall be implemented.

In essence, I support H.R. 1534. I want to commend the sponsor, the gentleman from California, Mr. GALLEGLY, and the gentleman from North Carolina, Chairman COBLE, for this measure. I have supported it in the past. I support it today.

My measure was added as an amendment the last time this legislation was offered on the floor, and unanimously accepted. Here is what it says: When a Federal agency takes an action that limits the use of or causes property damage, the agency shall give notice to that prisoner explaining the rights they have and where they go for compensation, if they qualify.

Let me say this: The average private property owner does not have accountants and attorneys that monitor legislation. This is the right thing to do.

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

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

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

Mr. Chairman, I say to the chairman and to the gentleman from Ohio [Mr. TRAFICANT] and to the body, Mr. Chairman, that I have reviewed the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] and I am supportive thereof.

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

Mr. TRAFICANT. I yield to the distinguished sponsor of the legislation that I support, the gentleman from California.

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

Mr. Chairman, I join with my colleague, the chairman of the subcommittee, after having reviewed the amendment, and stand in strong support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. I think it adds to the bill.

Mr. TRAFICANT. Mr. Chairman, I appreciate that, and I reserve the balance of my time.

The CHAIRMAN. Is the gentlewoman from California [Ms. LOFGREN] opposed to the amendment?

Ms. LOFGREN. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California [Ms. LOFGREN] is recognized for 5 minutes.

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

Mr. Chairman, I recognize the motivation of the author of the amendment, and I think the motivation is entirely honorable and one that I concur with. I do, however, have grave reservations about the actual language of the amendment and the implications and unintended consequences that might occur. This is a very broad duty that is being imposed by the amendment on the Federal Government. Let me just give an example of why I think it is problematic.

In the Clean Water Act we, the National Government, make some very stringent findings about what may and may not be discharged into a stream. For example, discharging arsenic into a river is something that we have tried to control and avoid. Under this amendment, control of the discharge of arsenic into a stream would or could qualify as a taking, because if you are

in a business that uses arsenic in manufacturing, and you are constrained from using arsenic and discharging it, you have, in fact, been impaired in the full utilization of your property. It could be a taking under the act. There would be a duty to provide notice to the business under the amendment.

I think that would be a very difficult thing for the Federal Government to do. I would also like to make an additional point, which is that there is no burden under the amendment to notify other private property owners who are disadvantaged by the failure to proceed with the Government regulation.

In the example I have previously outlined, for those downstream from the polluter, if there is arsenic in the water, their right to use the water for home consumption is going to be impaired. There is no duty under the amendment to notify the downstream users that the pollution is going to continue to be coming at them. I think that is a problem.

I do not plan to ask for a recorded vote on this amendment, but I would think that narrowly drafting this amendment to cover land regulation activities that are directly aimed at use of property might go a long way toward perfecting this amendment and reaching what the author hopes to do.

But in its current form, I think it is a massive new obligation for the Federal Government. It will be impossible, actually, to accomplish. Therefore, it will lead to litigation and further costs and expenses that none of us can afford, and all of us would like to avoid. These are all unintended consequences but nevertheless, severe ones. Therefore, I would urge opposition to this well-intentioned amendment.

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

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

I could understand the grave reservations that the gentlewoman from California has, but she cited as an example the discharge of arsenic into a stream. If the Federal Government or one of its agents or agencies has discharged such a pollutant into our stream, the Traficant amendment says that any private property owner affected by it would not only be eligible under the bill, but they would be notified by the Traficant amendment that it has occurred.

Mr. Chairman, the Traficant amendment is very clear. It says if a Federal agency, a Federal agency takes an action. If a Federal agency is responsible for discharging arsenic, the Traficant amendment says they shall notify all of the people. That is why it is so drafted, so everyone downstream in fact would have to be notified; would they not? There would have to be a notice, and if there was damage that was created from that, they would be eligible for compensation, and what are their procedures where they can go for such compensation.

That is why it was unanimously accepted. This is the language that ensures that an average private property owner has some basic notification, more than anything else. That is the trouble around here. We pass laws at times that the legal eagles understand, identify, distill, and digest, and then come back and lobby to amend them, but the average American may not even know there is a protection that exists, or they are even eligible for compensation for an action that was taken wrongly; maybe not intended to be wrongful action, but it certainly was, such as arsenic in the river.

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

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

Mr. Chairman, I would note that the amendment says, whenever a Federal agency takes an agency action limiting the use of private property.

In the example I used earlier, if the Environmental Protection Agency limits a business from discharging arsenic into the creek, they have impacted and limited the use of that private property, if the arsenic is important to the manufacturing process.

Therefore, the polluter, the arsenic deliverer to the stream, would, under this amendment, be required to be notified of the limitation on the use of his or her property. And arguably also be entitled to compensation for the limitation of the use of their property.

We will not, however, under the amendment be required to notify downstream users that the upstream user and deliverer of arsenic to the stream is not going to be constrained from so polluting because of the implication of this amendment, that essentially will stay action because of access to court.

I understand that the gentleman from Ohio [Mr. TRAFICANT] wants the average American to have notice. I do, too. But as a lawyer and prior professor of law, we also need to look at the plain language that we adopt. This will lead to unintended consequences certainly that the gentleman from Ohio [Mr. TRAFICANT] very clearly from his prior comments does not intend, nor do I. That is the problem with the amendment.

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

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

Mr. Chairman, if there is any language that needs to simplify this, that expresses the legislative intent in debate here today, I will not oppose it in conference. But the legislative intent and history is clear. Anybody downstream that would be subject to arsenic from the gentlewoman's debate here today would be eligible for notification and for compensation.

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That is the purpose. If there is language in here that is so nebulous that the gentlewoman from California [Ms. LOFGREN] feels that it may in fact negate that intention, then certainly, my request is to make those small minor adjustments to effect that legislative intent.

But, Mr. Chairman, let me say this: When an average citizen's property is being limited or, in fact, the value is being diminished therein, they should get notice that such action is being taken and where they go for proper procedures. And if this amendment does not do that, then I do say to the drafters of the bill for those additional substantive language to be placed in there to, in fact, express that concern.

With that, I would hope that the gentlewoman would take that in good faith and help to construct that language.

The CHAIRMAN pro tempore (Mr. FOLEY). The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BOEHLERT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Property Rights Implementation Act of 1997''.

SEC. 2. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2) For purposes of this subsection, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.''.

SEC. 3. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

''(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a

final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the 120th day after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 271, the gentleman from New York [Mr. BOEHLERT] and the gentleman from North Carolina [Mr. COBLE] will each control 15 minutes.

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

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

Mr. Chairman, I rise in support of my substitute. Here is what the substitute would do. It would allow those who sue the Federal Government over property rights to get to Federal court more rapidly. It does that in language that is virtually identical to sections 3 and 4 of the manager's amendment.

Mr. Chairman, here is what the substitute would not do. It would not interfere in any way with local government. It does that by eliminating section 2 of the manager's amendment. That is the section that allows Federal judges to intrude on local decision-making.

As Federal officials, we ought to limit ourselves to effecting Federal decisions. That is what my substitute does.

Mr. Chairman, I urge support for the Boehlert amendment. It is the moderate approach to property rights. It grants relief without trampling on Federalism. It helps property owners without preventing local communities from deciding their own future. I urge its adoption.

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

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

Mr. Chairman, I rise in opposition to the Boehlert amendment in the nature of a substitute to H.R. 1534. Very frankly, Mr. Chairman, the amendment will effectively gut the bill.

The fifth amendment to the Constitution prohibits the government from taking private property without just compensation. This prohibition is applicable to local governments through the 14th amendment. H.R. 1534 addresses the procedural difficulties encountered by property owners alleging the local or Federal Government has taken their property.

Currently, property owners claiming a fifth amendment taking by local governments do not have a realistic option to file in Federal court. Under current case law, a takings plaintiff must meet both the ripeness standard, meaning have a final decision regarding the permissible uses on the property and exhaust all State remedies and overcome the well-documented abuse of the abstention doctrine which Federal judges use to avoid takings cases. Federal judges routinely abstain from takings cases even when the claim alleges only a Federal fifth amendment claim based on action by a local government.

H.R. 1534 addresses this problem by prohibiting Federal judges from abstaining when the claim involves only a Federal fifth amendment claim, even when the taking was done by local governments.

Mr. Chairman, the Boehlert amendment strikes the provisions of the bill which are applicable to local governments, leaving in the provisions which apply to the United States as a defendant. Mr. Chairman, this would exempt the vast majority of private property owners from the relief and assistance that H.R. 1534 provides.

If the United States is a defendant, a takings claimant will have very little trouble getting into Federal court. However, claimants alleging a Federal fifth amendment taking by local government will continue to operate without any certainty as to when their case is ripe for Federal adjudication and continue to be routinely dismissed by Federal judges avoiding takings cases.

Mr. Chairman, during the past couple of weeks, our staff and the staff of the gentleman from California [Mr. GALLEGLY], the sponsor of the bill, have worked tirelessly with the staff of the gentleman from New York [Mr. BOEHLERT] to come to an agreement on several issues, and I think the gentleman from New York will admit to that.

On October 15, 1997, the staff of the gentleman from New York handed a list of amendments that needed to be made in order to gain the gentleman's support for the bill. The manager's amendment incorporated each one of these items, either precisely as requested or in spirit. It is not an exaggeration to say that we bent over backward to accommodate the gentleman's concerns about H.R. 1534. The Boehlert amendment does not reflect the concerns raised in those meetings, but a complete gutting of the bill.

Mr. Chairman, I urge my colleagues to vote ''no'' on the Boehlert amendment in the nature of a substitute for H.R. 1534.

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

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

Mr. Chairman, it has been alleged that the manager's amendment accommodates all of our objections to the bill. This simply is not so. The fundamental flaw in this bill is not addressed in the manager's amendment. It does now say that if a zoning board offers alternatives, a developer must appeal one more time. That is good. But the bill still removes all incentives to negotiate because a developer can go to Federal court rather than follow the zoning board's instructions. Moreover, the bill still explicitly takes State courts out of the process.

Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Boehlert amendment and, contrarily, I do not believe that this guts the bill; it enhances it.

Mr. Chairman, there is clear evidence that we do need something to ensure that the property owners are afforded their day in court. Several Law Review articles agree that the current takings ripeness barriers are unreasonable and that the obstacles confronting property owners are often insurmountable.

However, I fear, in fact I am convinced, that this bill, H.R. 1534, swings the pendulum too far in the other direction. I commend to my colleagues a quote from a recent letter sent by the National Governors' Association, the National League of Cities, and the Conference of Mayors. And I quote, ''This represents,'' meaning the bill, ''a significant infringement on State and local sovereignty.'' Mr. Chairman, I do not know why Republicans want to do that. But State and local sovereignty, ''and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to State and local governments as we are forced to resolve disputes in the Federal judiciary instead of through established State and local procedures.''

Mr. Chairman, it is for this reason, all these reasons, of course, that I urge support of the Boehlert amendment.

Mr. Chairman, I would say to my colleagues, by the way, I have always lived under the rule that all politics is local and there is nothing more local than private property and zoning questions. Let us make sure that we are not shifting the balance from our local communities to the Federal Government. I urge my colleagues to support the Boehlert amendment.

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

Mr. CALVERT. Mr. Chairman, I rise today in support of H.R. 1534, the Private Property Rights Implementation Act. As a Member representing California, as well as a member of the Western Caucus, I am acutely aware of the need for legislation to protect priority property owners, especially those who have fallen victim to the current administration's ongoing war with the West.

H.R. 1534 is fair legislation. It simply allows property owners injured by Government action equitable access to the Federal courts. Currently, 80 percent of Federal property claims are thrown out of the court before their merits can be debated. With a statistic like that no one can argue that the current process is fair.

No matter what reason the Government has for restricting private property use, and there are many legitimate reasons, there is no excuse for denying landowners their day in court.

Mr. Chairman, I urge my colleagues to oppose all weakening amendments to H.R. 1534, especially the Boehlert amendment. This amendment would eliminate the bill provisions allowing landowners to take their appeals to Federal court. Instead, the amendment states it would help landowners get to court ''more quickly.'' But what does that mean, more quickly?

It currently takes an average of 9½ years for the process to be resolved. ''More quickly'' could mean 8 or maybe 7 years, but it does not make that timeframe any more acceptable. This is not an issue about taking power away from the States and localities, as the Boehlert amendment would lead my colleagues to believe. H.R. 1534 is about the rights of property owners to have their claims considered fairly and in a timely manner.

Mr. Chairman, I urge my colleagues to oppose the Boehlert amendment and support H.R. 1534.

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

Mr. Chairman, I would like to point out to the gentleman from California [Mr. CALVERT] that his State attorney general, Attorney General Lungren, a good Republican, is opposed to this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I would like to address my colleagues with this concept: how many Members on this House floor are in favor of judicial activism where the unelected will determine land use and local zoning ordinances in their community? Who is in favor of that? If Members are in favor of judicial activism and if they are in favor of the unelected judicial judges determining local zoning in their area, then they will vote against the Boehlert amendment.

If, however, Members are in favor of expedited process to the Federal courts whenever a Federal action impedes or regulates private property, then they will vote for the Boehlert substitute.

The Boehlert amendment in the nature of a substitute expedites the process to Federal courts whenever a Federal action regulates Federal property. What the bill does without the Boehlert amendment is make Federal action control local land use and local zoning. That is the unintended consequences. The bill would send to Federal courts cases to decide local zoning and local land use.

Now, Mr. Chairman, the small community might be able to afford State courts, but there is no way they are going to be able to afford Federal courts. We all believe in the fifth amendment. We strongly believe that if property rights are taken away for the public good, constitutionally landowners should be compensated and they will be compensated.

However, if the local zoning board, the planning commission, decides in their management of their community that someone's property is going to cause public harm, that is a different story.

Mr. Chairman, I urge an ''aye'' vote on the Boehlert substitute.

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

Mr. Chairman, I want to say to the gentleman from New York [Mr. BOEHLERT], my good friend, I did not mean to mislead, when he said that the manager's amendment did not address all of his problems, what I said was that it addressed them either precisely or exactly or in spirit. And I think that is probably an accurate statement, although the gentleman's amendment did go a little farther than during the discussion.

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

Mr. COBLE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the spirit is one thing, but reality is something altogether different. There still is a fundamental flaw, as the gentleman from North Carolina would acknowledge.

Mr. COBLE. Mr. Chairman, reclaiming my time, we will talk about that another day.

Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I rise in opposition to the Boehlert amendment and in strong support of the passage of H.R. 1534.

Mr. Chairman, I want to thank the gentleman from North Carolina [Mr. COBLE] and the gentleman from California [Mr. GALLEGLY] and the other cosponsors for their leadership on this very vital issue that is so important to so many of our constituents across the country.

Mr. Chairman, many of us here today were elected so that we could make the Federal Government smaller and give more power to State and local governments, and I am proud that we are making progress in that regard. But all of us were elected and are sworn to protect and defend the Constitution. We should never waiver from that protection.

Mr. Chairman, as we continue to move toward a larger role for State and local government, the protection and defense of the Constitution must remain in the forefront of our minds, and perhaps no element of the Constitution is more important than the Bill of Rights.

□ 1315

House Resolution 1534 goes far toward ensuring that as local governments rightfully play larger roles, the rights of the citizenry do not fall prey to overzealous regulation. This bill does not infringe on the rights of States or localities to regulate land use. It merely ensures that the citizen will receive final decisions on those legitimate principles of governance in an expeditious manner.

Even now, before the goal of devolution is fully achieved, takings claims brought under the fifth amendment are lengthy and time consuming. They are treated, as Justice Brennen of the U.S. Supreme Court said, like stepchildren to the Bill of Rights. The bipartisan authors of House Resolution 1534 have recognized that this current situation, already a problem, needs to be addressed before the laudable goal of devolution exacerbates the situation. As Robert F. Kennedy once said, back in 1964, justice delayed is democracy denied.

Some elements of State and local government oppose this bill because House Resolution 1534 will, as the U.S. Conference on Mayors writes, lead to increased liability for municipalities. What more blatant admission is there than that this bill is needed? If the municipalities are engaging in activities for which the courts would find them liable, they should cease or pay in a timely manner without forcing the citizens into costly administrative procedures. The Constitution requires no less. House Resolution 1534 ensures that that will happen.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Chairman, I rise in support of the Boehlert amendment. I am particularly pleased to hear so many Members on the other side speak to the issues of States rights, devolution. It was the authors of the Contract With America that said they wanted to return power to the people through State and local governments. Yet the bill, H.R. 1534, that is before this Congress would take local land disputes that have always been decided by State and local authorities and turn them over to the Federal courts. Whatever happened to devolution and State rights?

It also was the authors of the Contract With America that said they wanted to limit judicial activism. Yet the bill sweeps away the abstention doctrine which in effect restrains judicial judges. It also eviscerates the ripeness doctrine which prevents premature Federal involvement in such cases. It invites the Federal courts to strike down the actions of zoning boards and city councils across the land.

Mr. Chairman, let us give federalism, devolution, and States rights another

chance and let us support the Boehlert amendment.

Mr. COBLE. Mr. Chairman, may I inquire of the Chair the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. FOLEY). The gentleman from North Carolina [Mr. COBLE] has 7 minutes remaining, and the gentleman from New York [Mr. BOEHLERT] has 7½ minutes remaining.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Chairman, this bill does not give property owners any new authority to sue the cities in Federal court. They have it. I believe that the Boehlert substitute would gut this bill and would treat property owners differently. That is my concern.

Let me say this, the great Vince Lombardi was loved by everybody, but when they asked Mr. Willie Davis why they loved him, here is what he said, because he treats us all alike, like dogs at times, but all alike.

I think that the gentleman's substitute would put and inflect some differences in the way property owners would be treated.

Local officials still govern this. The process would be expedited under this bill. I think the bill is, in essence, good.

I would like to see the gentleman work in conference for some of the ideas in his substitute which are good.

Mr. BOEHLERT. Mr. Chairman, I would like to point out to my distinguished colleague from Ohio that this simply says that Federal courts deal with Federal issues. Local courts, State courts deal with local and State issues. Washington is not the source of all wisdom.

Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], former Governor.

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

This is a very interesting bill. It is very conflicted in terms of the usual beliefs that we have here. We basically have private property rights versus local decisionmaking. The Republican Party which sides with local decisionmaking does not in this particular case.

I can understand the argument for private property rights, but then to give it to the Federal judiciary, which is not exactly an entity that is supported readily by Republicans, strikes me as being highly unusual. I do not know how they are really qualified to handle these kinds of decisions on a regular, simple appeal at an early process. And that is what this is all about.

Could we argue that eventually the appeal could go up to Federal court? It is very unlikely. Now, it is very likely that the Federal court is going to spend about half of its time handling these local property appeals. They are totally ill equipped to do this. It just is not going to work.

Do we want to expand the Federal judiciary to do this? We should note that the National Governors Association, as has been stated, 39 State attorneys general, the Judicial Conference of the United States have all come out against this bill. They have serious problems with it and they rightfully should.

This amendment is a pretty simple amendment. I support the amendment. Sections 3 and 4 basically are being changed here. It eliminates the direct appeal to the Federal courts on local property decisions, which really, in my judgment, absolutely should be done. But if one exhausts everything, they could still do it. If one is dealing with a Federal agency, they could still do it. So it still leaves the essence of the bill.

Yes, I understand the concern. I have a lot of respect for the sponsor of the legislation because I believe there are some private property concerns that need to be addressed out there. But this unfortunately is not the right answer. The bill goes too far. Now that we have had a chance to really study that, I think we need to understand it.

The best thing we can do today is to pass the Boehlert amendment, a good amendment which adjusts the bill and makes it correct, and then go on and pass the rest of the legislation at that point. I would urge everybody to look at this carefully. These are significant issues and the burden that we are shifting over to the Federal courts is something we should not do. I encourage support of the Boehlert amendment.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

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

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 1534 and in stronger opposition to the Boehlert amendment. The bill, the base bill is an equitable solution aimed at balancing the rights of private property owners with increased environmental, economic, and land use concerns. The fifth amendment states that private property shall not be taken for public use without just compensation. The legislation before us today is a bipartisan and moderate approach that guarantees the protection of the fifth amendment. The Boehlert amendment guts the heart of H.R. 1534 by removing equal access to Federal courts for property owners.

The base bill is a targeted limited bill that does not define when a taking has occurred. Consequently, the proper trigger point for compensation does not need to be debated. The Boehlert amendment creates a dangerous precedent by forcing Federal courts to deal differently with property rights cases depending on who the defendant is. The base bill does not give Federal courts new authority on questions that should be answered in State courts, rather, it provides an expedited way to resolve State issues.

Furthermore, this bill does not amend environmental law or regulation which was a point of contention in previous debate. Simply put, this legislation would provide for quicker and more straightforward access to Federal courts. The Boehlert amendment micromanages the Federal courts.

I would like to commend the gentleman from California [Mr. GALLEGLY] and other supporters of H.R. 1534 for their efforts to find a new way of reconciling the difficult issues addressed here. This legislation is balanced and fair. I urge my colleagues to support the base bill and oppose strenuously the Boehlert amendment which guts the base bill.

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

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], a member of the Committee on the Judiciary and primary sponsor of the bill.

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

Mr. GALLEGLY. Mr. Chairman, I stand in strong opposition to this amendment. I would just like to respond to the gentleman from Massachusetts [Mr. DELAHUNT] and his comments. I am also very pleased to see the number of Democrats we have in strong opposition to the Boehlert amendment.

As a former mayor, I could not agree more with those who have argued for local control and decisionmaking. What we are trying to do is to provide some certainty to a process that can otherwise be very open-ended. What the bill now says is that the property owner must take a meaningful application, then if the locality chooses to deny that application, they should explain why in writing. If they do not approve that application, they should explain what type of development they would accept.

Mr. Chairman, I ask my colleagues to strongly oppose this amendment. It guts the bill. I hope the Members will join me in helping to preserve the reforms that are intended in this legislation.

I rise in opposition to the amendment by the gentleman from New York. Although the gentleman has made a number of positive suggestions about the bill recently, the amendment he is offering today is quite severe.

The amendment on the floor today will gut an extremely important part of H.R. 1534.

It is very important that we do not lose sight of the central point of this bill: Federal Constitutional property rights do not empower Federal judges to make land use decisions. H.R. 1534 would not empower Federal judges to decide whether a certain piece of land should be used for a grocery store or for a hair salon. Local governments will continue to have their traditional powers to make and enforce zoning regulations.

Some of the people who are screaming the loudest about local control of all land-use decisions have also been big supporters of having

Federal environmental laws micromanage how land is used. Federal endangered species protections certainly interfere with how land is used. No locality can regulate land use in a way that does not comply with Federal wetlands protections. There are probably many other environmental laws, enforceable in Federal court, that directly impact local governments or lands use decisions.

H.R. 1534 provides ample opportunity for the local process to work so that appropriate zoning and land use regulation can proceed.

What we are trying to do is provide some certainty to a process that can be otherwise very open-ended. What the bill now says, is that the property owner must make a meaningful application. Then, if the locality chooses to deny that application they should explain why, in writing. If they will not approve the application, they should explain what type of development they would accept.

Taking into account this information, the landowner must reapply. If that application is not approved, then he or she must appeal the decision or seek a waiver.

As a former mayor, I could not agree more with those who have argued for local control and decision-making. I might also note that many of the cosponsors of H.R. 1534 bring to this debate extensive knowledge of State and local government—133 of the members supporting the bill previously served as mayors, city council members, or State legislators. They bring to this debate a very practical understanding of what is at stake, and they support this legislation.

The question before us today is whether Americans should have reasonable access to the Federal courts to enforce Federal rights. I hope the Members of the House will support H.R. 1534 to provide legal protections that are fair and effective.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. POMBO].

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

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

Basically what we have here is the age-old debate, the debate of whether or not we have power to the government or power to the people. We get down to this basic debate many times over different issues, especially over private property issues. Whether the argument is to protect the power that the government controls over its citizens at the Federal level, the State level, or the local level, that is a debate that we continually hear from this particular side on this issue. They want to maintain that power over the citizenry.

On the other side of this issue what we have is people who are arguing in favor of the private property owner, of the individual citizen, of the individual that we all represent. I think that that is one of the important distinctions in this debate.

The importance of this underlying legislation is an attempt to give private property owners their so-called day in court. That is the effort that is being made. I admit that this bill does not go as far as I would like it to. I admit that the underlying legislation is a moderate attempt to achieve a very worthwhile goal. The Boehlert amendment guts even a moderate attempt to try to achieve that.

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

Mr. Chairman, for those who say that my substitute guts the bill, I would point out that my substitute retains section 3 and 4 of the manager's amendment. Are the sponsors saying that those sections of the bill are meaningless? I do not think so.

To the previous speaker who says there is a choice, do we have power to the Government or power to the people? I say the choice is, do we have all power vested in Washington, DC, in the Federal Government, or do we leave to State and local governments power that they so jealously guard that they want to preserve, the power to make the decisions at the local level about local zoning issues?

Should the Federal Government determine whether or not we will have a pornographic parlor on some corner in some small hamlet in some State in America? I do not think so. I think the local communities can deal very effectively with that issue.

I would point out that the National Governors Association has spoken eloquently to this bill. Let me read an excerpt from their letter which has been addressed to all of our colleagues here:

> We are writing to express our strong opposition, strong opposition, to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997.

Continuing, the Governors letter says,

> the result will be substantially more Federal involvement in decisionmaking on purely local issues.

□ 1330

> This represents a significant infringement on State and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community.

Now, that is an excerpt of a letter from the National Governors' Association signed by Gov. George Voinovich, chairman of the National Governors' Association, Mark Schwartz, councilmember, Oklahoma City, president, National League of Cities, and Mayor Paul Helmke, city of Fort Wayne, president, U.S. Conference of Mayors.

As a matter of fact, my bill is the sensible approach to this issue because the basic bill, H.R. 1534, is not just opposed by me, not just opposed by a couple of Representatives of this great institution, it is opposed by the National Governors' Association, most State attorneys general, 40 at last count, including Dan Lungren, the attorney general of the State of California, including the attorney general of the State of New York, including the attorney general of the State of Texas, including the attorney general of the State of Connecticut, of Delaware, of Florida, of Georgia, of Hawaii, of Idaho, of Indiana, of Iowa, of Louisiana, of Maine, of Maryland, of Massachusetts, of Michigan, of Minnesota, of Mississippi, of Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, the attorney general of the Virgin Islands, the attorney general of Guam, the attorney general of the State of Washington, the attorney general of the State of Wisconsin.

The list goes on and on. Not only the attorneys general but the Judicial Conference of the United States, chaired by the Chief Justice of the Supreme Court of the United States, a very conservative Republican, Chief Justice Rehnquist. It is opposed by the National League of Cities, the U.S. Conference of Mayors, and every single environmental group in America.

Why do they oppose it? Because it simply does not make sense. The Republicans, my colleagues, my friends, are saying they favor devolution. They want to send more authority back to State and local governments, and I think that makes a lot of sense. This bill does just the opposite.

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

Mr. BOEHLERT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to rise in support of the gentleman's amendment and in opposition to the underlying bill.

I think the gentleman has done good work in terms of this. This helps the bill. It does not completely fix it, but I think it does respect the issue of restraint, in terms of the Federal Court, which is something that I think others have spoken to.

So I thank the gentleman, commend him for his work, and support his amendment.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I point out what the Judicial Conference of the United States says, and keep in mind we are talking about a basic issue decided by the Supreme Court that this bill proposes to overturn. That issue was decided 7 to 1 by the Supreme Court, with all the conservative justices voting in favor of Williamson County versus The Bank of Hamilton. Williamson County in Tennessee.

The Judicial Conference of the United States says the judicial conference expresses concern with the Private Property Rights Implementation Act of 1997. The bill would alter deeply ingrained Federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local level.

Finally, let me point out to my colleagues that it has been said repeatedly that my concerns have been mainly accommodated, some directly, some in spirit. Well, in spirit, that leaves a lot for interpretation.

The basic fact of the matter is, there is a fatal flaw in this bill. It does now say that if a zoning board offers an alternative, a developer must appeal one more time. But the bill removes all incentives for negotiations.

I urge support of the Boehlert substitute and opposition to the basic bill unless it is properly amended.

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

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

Mr. CAMPBELL. Mr. Chairman, the States are the issue in this debate, and so the Boehlert amendment, the amendment of my good friend, will destroy the purpose of this bill. The debate is over States. Not Federal Government encroachment, but State government encroachment.

That is why we are here. It is because when individual plaintiffs with objections under the fifth amendment to the Constitution complain that State governments have interfered with their rights, they are kept from getting an adjudication in Federal court in anything like an expedited or appropriate time frame. So if we remove from the bill all those provisions that deal with the States and local government, which is what the Boehlert amendment does, we do not have a bill worth discussing.

We are not here because of Federal Government takings, we are here because of allegations against State governments and local governments. So, really, voting for the Boehlert amendment is voting against the bill. Do not make any mistake about it, that is what it is.

I do not think we should vote against the bill, and here is why. Think what the Federal courts are supposed to do in the protection of constitutional rights. We do not tell Federal court plaintiffs to go somewhere else and wait their time when they are complaining of voting rights, when they are complaining of discrimination, of poll tax, illiteracy tax, being told they cannot have a right to the ballot. We do not say go take it to the board of election commissioners.

When there is a restrictive zoning, keeping someone out of an area because of their race, we do not say, well, take it to 20 different appeals to the zoning commissioners of the particular State, county, or locality.

And we deal with school desegregation. The day the Governor stands in the school and says someone may not come in there because of their race, that day the plaintiff goes into Federal court.

Why is the fifth amendment less? Why are plaintiffs under the fifth amendment to our Constitution not entitled to that same access to the Federal courts that are available to those who plead under the other provisions that I have cited?

The managers of the bill have accepted my amendment. I conclude by quoting it. ''Nothing in this bill alters the substantive law of takings of property, including the burden of proof borne by plaintiff.'' Vote for the bill, oppose the Boehlert amendment.

The CHAIRMAN pro tempore (Mr. ROGAN). The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 242, not voting 14, as follows:

[Roll No. 518]

AYES—178

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Blagojevich
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dixon
Doyle
Ehlers
Engel
Eshoo
Etheridge
Ewing
Farr
Fattah
Fawell
Filner
Foglietta
Forbes
Fox
Frank (MA)
Frelinghuysen
Furse
Ganske
Gephardt
Gilchrest
Gilman
Goss
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hinchey
Horn
Jackson (IL)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Obey
Olver
Owens
Pastor
Payne
Pelosi
Pomeroy
Porter
Portman
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Stupak
Sununu
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NOES—242

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Evans
Everett
Fazio
Flake
Foley
Ford
Fowler
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kennelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sandlin
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Brown (CA)
Chambliss
Cubin
Gonzalez
Jackson-Lee (TX)
Lantos
Martinez
McIntosh
Parker
Schiff
Shays
Stark
Strickland
Weldon (PA)

□ 1358

Messrs. HINOJOSA, HOEKSTRA, GUTKNECHT, CLYBURN and PEASE changed their vote from ''aye'' to ''no.''

Mrs. McCARTHY of New York, Mr. MOAKLEY and Mr. GANSKE changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Mr. Chairman, on rollcall No. 518, I was unavoidably detained. Had I been present, I would have voted ''yes.''

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall 518, the Boehlert amendment to H.R. 1534, I had a malfunctioning beeper and was in meetings where there was no detection that the vote was going on and so I missed that vote. Had I been present, I would have voted ''yes.''

□ 1400

PREFERENTIAL MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore [Mr. ROGAN]. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. FRANK of Massachusetts. Mr. Chairman, I read today that Roger Ebert, I guess it was today, has an article in which he says there should be a new category of Nobel Prize for Movies.

Well, I am going to add one. We should immediately ask that they institute a Nobel Prize for Inconsistency, because you would win it. There would be a problem: Under the rules, you could not accept the money, but maybe we can put it to the deficit. Because I do not think in recorded parliamentary history there has ever been a greater gap between people's professed principles and what they have voted for than there is in this bill.

The last speaker for the bill, against the amendment offered by the gentleman from New York [Mr. BOEHLERT], said it is about States. He was absolutely right. The premise of most of this bill is that States cannot be trusted to deal fairly with property rights; not State local officials, not State zoning boards, and, God forbid, State courts. Because what you are about to vote for is a bill that says let us tell every unelected life-tenured Federal judge in the country that they have not been sufficiently activist.

This bill says to all those guys sitting on the bench, what are you doing, sitting back and letting controversies be decided by State officials? How dare you leave things to the electorial process? What are we paying you for? How come you have life tenure? Intervene. Do not let these State zoning boards work out their will. Do not let State courts decide these issues.

In fact, it even says to them there is a State issue? You Federal judges, decide it. What do we pay you for? You have got life tenure.

Never in history have people denounced activism so much and promoted it even more.

The bill says this. And do we respect property rights? Yes. But what you are saying by this bill is we cannot trust State government. It is not a question about property rights, it is a question about whether State governments can be trusted, and it says we are not getting enough nonelected, life-tenured Federal judges intervening in the local process.

Somebody has a zoning fight in his or her State, and we say, all right, we will give the zoning board one shot. They get one appeal. Stay away from the State courts, go right into Federal Court. We do not want the Governor, the mayor, mucking around in here. What do all these elected officials know?

It also says, by the way, we do not decide enough judicially in America. It says that courts are sitting back and waiting for the political process. Let us intervene earlier.

There is a Federal doctrine known as ''ripeness'' which says the courts should not rush in; the courts should defer. Do you know what this bill says? Enough of that stuff. Earn your money. Do not wait for these disputes to be worked out, do not wait until the local officials debate it more and get factual information. Decide it. What do you have life tenure for? Ignore those local people. Do not pay attention to the State judges.

Let us be very clear: This bill says we need the Federal judges to be a lot more active than they have been. They should stop waiting for these things to be ripe. They should stop deferring to State courts to decide issues. They should stop letting local officials work these things out. We will solve it.

You passed a bill that restricted the right of habeas corpus in Federal court so we will not have habeas corpus. What we will have now is ''habeas propertius.'' What you will do, if your life is at stake, why not take three more State appeals? But you did not like the zoning, where is the Federal judge? You can get right into it.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware of any city or State organizations that support the Gallegly bill, himself a former mayor?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I do not know. I would have to say to my friend apparently there are some cities somewhere where people, having voted for the mayor, city council and to establish a zoning board, found they cannot trust them, and want the Federal courts.

There may be some municipality somewhere that wants unelected Federal judges to ride to the rescue from the zoning boards. Maybe we should be playing the William Tell Overture, because here come the Federal judges riding to the rescue, protecting you from these local officials.

Mr. Chairman, let me say in closing, I can understand people saying the Federal courts ought to do more, and if you think that you cannot trust the local people, okay. But, please, can I ask my colleagues on the other side, could you wait a week before you get up and denounce judicial activism? Can you wait a week before you pretend to be for States' rights? I do not think we can ban inconsistency, but let us have a waiting period.

Mr. GALLEGLY. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I thank my good friend from Massachusetts for yielding.

I would like to respond to the gentleman from Michigan [Mr. CONYERS], my good friend and neighbor, every mayor I have talked to in my district has signed a letter supporting it, cities over 100,000 people. I have not had one say no.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I think there have been cases where mayors do not like what the Governors do. I do not doubt that. But if there is any respect left in this body for consistency, this bill will be voted down.

Mr. COBLE. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, we believe in Federal protection in Federal courts for Federal fundamental rights. States protect State and Federal rights, but our Founding Fathers put this right in the Federal Constitution for attention by the Federal Government with a Federal remedy. So I do not see any inconsistency there.

Previously, Mr. Chairman, I said the Boehlert amendment would gut the Gallegly bill. I now say to my friend, the gentleman from Massachusetts [Mr. FRANK], that his motion to strike the enacting clause will emasculate the bill. It does great damage to the bill.

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

Mr. COBLE. I yield to the gentleman from Illinois.

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

Mr. HYDE. Mr. Chairman, under the bill with the manager's amendment, you do not get immediate access to the Federal court. You have to apply to the local land use agency. You get a ruling, you reapply, taking the conditions of the denial into account. Then you must appeal the application, or as much as necessary, to reach a body of elected local officials, if available.

If all of the above are denied, you have concurrent jurisdiction. You may go the State route or you may go the Federal route.

Now, I hasten to point out what we are vindicating here is a constitutional right, and the Federal courts exist to vindicate constitutional rights. The fifth amendment discusses the taking and the rights of property owners; the seventh commandment talks about thou shalt not steal.

The real problem is delay. Data indicates nine years it takes to wend your way through the maze of local jurisdiction. The Federal judges are local people. These cases are not too tough for them to decide. Concurrent jurisdiction is given, and there are many civil rights cases that get expedited treatment under the statute.

Why is not the right to have your property treated properly and legally a civil right? It is a human right. I simply say the Federal courts are not some exotic bizarre branch of justice only taking a few cases. Those judges can handle these cases. They are not tough. They handle a lot tougher cases.

But give the property owner some relief before 9 years have elapsed. Justice is what the court systems are all about, and concurrent jurisdiction gives the property owner an opportunity to get his Federal right, his constitutional right, vindicated in a Federal court.

I do not think there is anything improper with that.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I seriously appreciate having the chairman of the Committee on the Judiciary give this testimony to the important role of Federal district judges. We have heard too little of that. While I disagree with him on the specific bill, I am glad to have him reaffirm the importance of the local resident Federal district judges having a major role in defending constitutional rights.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, then the gentleman agrees with me and ought to withdraw his motion.

Mr. FRANK of Massachusetts. Mr. Chairman, I will withdraw my motion.

Mr. HYDE. God bless you.

Mr. FRANK of Massachusetts. I will ask unanimous consent to withdraw my motion, but the gentleman will lose his debate time. Does the gentleman want me to do it now, or wait?

Mr. HYDE. Mr. Chairman, you know, it is very unfair debating BARNEY FRANK, because he can get 20 minutes into 3 minutes. Never forget, this is a Federal constitutional right we are seeking to vindicate, and if the Federal courts do not want to hear these cases, this is a shame.

□ 1415

That is denying justice. Justice delayed 9 years is not justice, and we ought to seek a remedy. This bill provides a remedy, and I urge its support.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to withdraw the motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HANSEN] having assumed the chair, Mr. ROGAN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, pursuant to House Resolution 271, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute 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 MS. LOFGREN

Ms. LOFGREN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. LOFGREN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. LOFGREN moves to recommit the bill to the Committee on the Judiciary.

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 to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 178, not voting 8, as follows:

[Roll No. 519]

AYES—248

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Berry
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Fazio
Foley
Ford
Fowler
Fox
Franks (NJ)
Frost
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sanchez
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
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
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—178

Abercrombie	Gilman	Neal
Ackerman	Goss	Oberstar
Allen	Greenwood	Obey
Andrews	Gutierrez	Olver
Barrett (WI)	Hastings (FL)	Owens
Bass	Hefner	Pallone
Becerra	Hinchey	Pastor
Bentsen	Hooley	Payne
Bereuter	Horn	Pelosi
Berman	Jackson (IL)	Pomeroy
Bilbray	Johnson (CT)	Porter
Blagojevich	Johnson (WI)	Portman
Boehlert	Johnson, E. B.	Poshard
Bonior	Kanjorski	Price (NC)
Borski	Kaptur	Rahall
Boucher	Kelly	Ramstad
Brown (CA)	Kennedy (MA)	Rangel
Brown (FL)	Kennedy (RI)	Reyes
Brown (OH)	Kennelly	Rivers
Capps	Kildee	Rodriguez
Cardin	Kilpatrick	Roukema
Carson	Kind (WI)	Roybal-Allard
Castle	Kleczka	Rush
Clay	Klink	Sabo
Clayton	Klug	Sanders
Clyburn	Kucinich	Sanford
Conyers	LaFalce	Sawyer
Costello	Lampson	Saxton
Coyne	Lazio	Schumer
Cummings	Levin	Serrano
Davis (FL)	Lewis (GA)	Shays
Davis (IL)	Lipinski	Sherman
DeFazio	Lofgren	Skaggs
DeGette	Lowey	Slaughter
Delahunt	Luther	Smith (NJ)
DeLauro	Maloney (CT)	Smith, Adam
Dellums	Maloney (NY)	Snyder
Dicks	Manton	Spratt
Dingell	Markey	Stabenow
Dixon	Matsui	Stark
Doggett	McCarthy (MO)	Stokes
Ehlers	McCarthy (NY)	Stupak
Engel	McDermott	Tauscher
Eshoo	McGovern	Thurman
Evans	McHale	Tierney
Ewing	McKinney	Torres
Farr	McNulty	Towns
Fattah	Meehan	Velazquez
Fawell	Meek	Vento
Filner	Menendez	Visclosky
Flake	Millender-McDonald	Walsh
Foglietta	Miller (CA)	Waters
Forbes	Minge	Watt (NC)
Frank (MA)	Mink	Waxman
Frelinghuysen	Moakley	Wexler
Furse	Mollohan	Wise
Ganske	Moran (VA)	Woolsey
Gejdenson	Morella	Wynn
Gephardt	Nadler	Yates
Gilchrest		

NOT VOTING—8

Chambliss	Jackson-Lee (TX)	McIntosh
Cubin	Lantos	Schiff
Gonzalez		Strickland

□ 1437

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall vote 519, final passage of H.R. 1534, I had a malfunctioning House beeper and was not able to get to the vote. Had I been present, I would have voted ''no.''

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1534, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1534.

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

There was no objection.

PERSONAL EXPLANATION

Mr. SHAYS. Mr. Speaker, on rollcall vote No. 518, the Boehlert substitute, I was, believe it or not, in the Capitol chapel and missed my first vote since I became a Member of this body in 1987. Unfortunately, the battery in my pager was dead, and I was unaware that there was a vote. I know, ''My dog ate it.'' Had I been present, I would have voted ''aye.''

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2646, EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105–336) on the resolution (H. Res. 274) providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMTRAK REFORM AND PRIVATIZATION ACT OF 1997

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

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. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. 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 Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. 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 and an amendment in the nature of a substitute by Representative Oberstar of Minnesota. The amendment by Representative Oberstar may be offered only after the disposition of the amendments printed in the report of the Committee on Rules, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. The amendments 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 except as specified in the report, 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 pro tempore [Mr. FOLEY]. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], 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.

Mr. Speaker, House Resolution 270 is a modified closed rule providing for consideration of H.R. 2247, the Amtrak Reform and Privatization Act of 1997.

Mr. Speaker, the rule provides for 1 hour of general debate, equally divided, and makes in order the Committee on Transportation and Infrastructure's amendment in the nature of a substitute.

Further, the rule makes in order two amendments printed in the report of the Committee on Rules as well as the Democratic substitute.

To expedite floor proceedings, the Chairman of the Committee of the Whole may be allowed to postpone votes during the consideration of H.R. 2247 and to reduce votes to 5 minutes, provided they follow a 15-minute vote.

Finally, the rule also provides the minority with the customary motion

to recommit with or without instructions.

□ 1445

Many of my colleagues may recall that last Congress the House considered and passed an Amtrak reform bill. In fact, that bill is virtually identical to the legislation before us today and it passed the House by an overwhelming vote of 406 to 4 with the support of both political parties, the administration, and organized labor. So one would think that without much debate the House could again easily pass this compromise legislation. But oddly things have changed.

Last night, in the Committee on Rules we heard testimony to the effect that organized labor has had a change of heart and no longer finds the Amtrak reform bill to their liking. While the reason for this mood swing was not made fully clear, the Committee on Rules voted to make in order two amendments that had the support of organized labor, a bipartisan amendment offered by my colleagues, the gentlemen from Ohio [Mr. LATOURETTE], and [Mr. TRAFICANT], as well as an amendment offered by the gentleman from New York [Mr. QUINN], which will be offered as a substitute to the LaTourette-Traficant amendment. Each amendment will be debatable for 20 minutes.

In a further effort to alleviate recent concerns, the Committee on Rules agreed to allow the ranking Democrat on the Committee on Transportation and Infrastructure to offer an amendment in the nature of a substitute which will be debatable for 30 minutes. That means that under the rule, two Democrats and two Republicans will have the opportunity to offer amendments to the Amtrak reform bill. In addition, the minority has the opportunity to offer a motion to recommit with or without instructions.

I would submit to my colleagues that the rule before us is very balanced and, given the easy passage of virtually identical legislation in the 104th Congress, I think the rule provides adequate time to debate the substance of the legislation, including the new concerns that have cropped up.

Mr. Speaker, not only is the rule before us fair, but the underlying legislation it allows the House to debate is critical. Amtrak's financial state is rapidly deteriorating. In April of this year, the Committee on Transportation and Infrastructure appointed a panel of outside experts to study Amtrak. The panel reached the unanimous conclusion that Amtrak is facing a severe financial crisis with bankruptcy looming the next 6 to 12 months.

In response, the Committee on Transportation and Infrastructure reintroduced legislation to implement a number of long-awaited reforms that will stave off bankruptcy and put the railroad back on track, ready to serve the many passengers who rely on its services. H.R. 2247 will eliminate the Federal Government's micromanagement of Amtrak and provide Amtrak with needed flexibility in managing its work force.

For example, H.R. 2247 will restructure Amtrak's management by removing the current board of directors and providing for the appointment of an emergency reform board which will recommend a plan to restructure Amtrak. The bill also creates a seven-member advisory council of business experts having no affiliation with the railroad industry, Amtrak, or the U.S. Government who will be charged with evaluating Amtrak's business plan, cost containment measures, productivity improvements, and accounting procedures. The council would then recommend to Congress how best to proceed toward partial or complete privatization of the railroad.

In addition, the bill gives Amtrak the option of contracting out work which will provide for desperately needed capital savings. Contracting out the work to repair and modernize Amtrak's facilities alone would save taxpayers an estimated $262 million. The bill also makes some reasonable changes to onerous labor protection requirements that will allow Amtrak to streamline and reassign its work force in line with commonsense business practices.

Other reforms in the bill will provide options for private financing and encourage States to continue their financial support of Amtrak in cooperation with other States to ensure their citizens have continued access to valued intercity rail services. These and other reforms in H.R. 2247 promise to continue Amtrak's service for passengers in the short term and set the railroad on a course to financial solvency and self-sufficiency in the long run.

While these changes are dramatic by necessity, they are carefully designed in fairness to the American taxpayers and Amtrak's employees.

Mr. Speaker, time is of the essence. Our constituents who rely on intercity rail services and all American taxpayers are looking to Congress to address Amtrak's crisis in a reasonable, responsible, and timely manner. Therefore, I urge my colleagues to adopt this fair and balanced rule without delay so that the House can move on to debate the important issues surrounding Amtrak's future.

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, the gentlewoman from Ohio [Ms. PRYCE] for yielding me the customary half hour.

Mr. Speaker, Amtrak is one of the foundations of our national transportation system and it is a crucial part of our economic infrastructure. But this bill will hurt Amtrak. It will hurt Amtrak workers far more than it will help Amtrak. For that reason, I urge my colleagues to oppose this modified closed rule.

Mr. Speaker, millions of Americans rely on Amtrak. They take the train to work. They take the train to meet their customers. They take the train to meet their clients. They take the train to college. They take the train to visit family and friends.

The people who work on the railroad do an excellent job of making sure that the trains run on time.

Mr. Speaker, rail travel is the transportation of the future. It is fast. It is convenient. It is energy-efficient, and it enables everyone to travel regardless of whether or not they can afford an automobile.

The Northeast corridor is the most traveled rail route in the country. This corridor stretches from Boston to Washington, DC, and carries over 100 million passengers a year. Without Amtrak, Mr. Speaker, our infrastructure would be much more overloaded than it already is. Our air would be more polluted, and most people would have a much more difficult time getting from one destination to another.

Mr. Speaker, we all recognize that Amtrak, despite the great improvements that have been made over the last few years, is still not working at its best. According to the General Accounting Office, Amtrak's equipment, Amtrak's facilities, its stations, its tracks, its rolling stock are all starved for capital investment. Without capital investment, services are less reliable, trains are less comfortable, and the American rail system falls further and further behind those of other developed countries.

Mr. Speaker, today's bill is designed to help solve these problems by making Amtrak more commercially viable. For example, today's bill forbids Federal micromanagement of Amtrak's routes and incorporates transport industry expertise from the private sector. It also triggers up to $2.3 billion in tax credits for desperately needed capital expenditures.

But despite the great improvements this bill will make in our national rail system, I urge my colleagues to oppose the rule and oppose the bill.

This bill contains some very dangerous provisions which will hurt Amtrak, hurt Amtrak employees, and hurt Amtrak's passengers. It is unfair and it is antiworker.

This bill ends the statutory wage protection for displaced or downgraded workers which Amtrak employees have had since the 1930s. It also ends the remaining protections Amtrak employees have against the contracting out of their jobs to outside vendors.

Amtrak's labor protection costs are minimal. Over the last couple years, when Amtrak has laid off 4,000 workers, they have paid only $100,000 on labor protection. And this is out of an entire budget of nearly $1 billion a year.

My Republican colleagues will argue that these protections drive up costs and cripple attempts to make passenger rail commercially and financially viable.

Mr. Speaker, that is totally untrue. In fact, the cost of statutory protections is tiny compared to total operating subsidies and even tinier when compared to Amtrak's total cost. So removing these statutory protections will do very little to make Amtrak more efficient, but it will do a lot more to make workers' lives more difficult.

The lives of the people on Amtrak's management team do not seem to be suffering much. Amtrak has paid $3.5 million in management buyout costs. I do not hear my Republican colleagues complaining about that.

Mr. Speaker, outside contracts do nothing to help keep the costs down either. Amtrak already has considerable leeway to make outside contracts, but its own workers are much more efficient. For example, Amtrak has not been able to find an outside vendor capable of delivering food and beverage services more economically than Amtrak workers already deliver those services at the present time.

Mr. Speaker, my Republican colleagues appear to be obsessed with the idea of contracting things out. But in this case they are really putting politics before the national interest. The facts show Amtrak employees just can do it better. If organized Amtrak workers can do the job better for less money, why on Earth would anybody try to stop them?

Mr. Speaker, Amtrak workers are not exactly living high on the hog. Over the last 16 years, Amtrak workers' standard of living has declined by over 33 percent. In most cases, their wages have not even kept abreast of inflation.

Mr. Speaker, I come from a railroad family. All of my uncles also worked for the railroad, so I have always respected and saw firsthand the hard work that these people do. Today it is no different. The 20,000 Americans who work so hard for Amtrak deserve some protection in this bill. Unfortunately, the way it stands now, they just will not get it.

Meanwhile, this bill's attacks on Amtrak employees workers just do not stop at cutting statutory wage protection and increasing outside contracts. Mr. Speaker, this bill completely ends the wage protection aspect of collective bargaining agreements, and it is not as if these agreements were forced on anyone. These agreements were freely agreed to by unions and management under the established law. To overturn them is completely unwarranted and, once again, smacks of unjustified attack on organized labor.

Finally, Mr. Speaker, this bill hurts Amtrak passengers by limiting the liability of freight railroads for causing accidents and by tying the calculation of damages to an arbitrary economic formula. It sets up an unfair double standard under which the liability of freight carriers is restricted, but under which Amtrak's liability is not restricted.

Mr. Speaker, despite the much-needed improvements this bill will make in our national passenger rail system, the harm it will do, the harm it will cause Amtrak employees is far worse. I urge my colleagues to oppose this bill, oppose the rule.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI], a member of the Committee on Transportation and Infrastructure.

Mr. PETRI. Mr. Speaker, I rise in support of House Resolution 270. This rule is a fair rule especially in light of the history of this legislation. In the 104th Congress, the House passed virtually the same bill that we have before us today. That legislation enjoyed the bipartisan support of 406 House Members and the full endorsement of organized labor. In fact, labor participated in drafting the labor reforms that it is opposing today. This rule allows for a Democratic substitute amendment and for one Republican amendment with a substitute. Members will have the opportunity to vote on these amendments. Amtrak reform legislation must be enacted. Anyone who has been paying attention to Amtrak knows that it is about to enter into bankruptcy.

The General Accounting Office has confirmed this as well as the Committee on Transportation and Infrastructure's bipartisan Blue Ribbon Panel on intercity rail.

Mr. Speaker, today's vote is about the future of intercity rail in the United States. If we want to continue to have rail service as a transportation option, then we must enact reform legislation dealing with Amtrak. There is no way Amtrak can survive without it. In addition, the reform legislation will free up $2.3 billion that was provided in the Taxpayer Relief Act for badly needed capital investment in Amtrak.

Mr. Speaker, I urge a ''yes'' vote on this rule and on the legislation to follow.

□ 1500

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I oppose this rule, and let us just get to the heart of one of the things we are going to hear, and that is the mantra, over and over, 406 to 4, 406 to 4. My colleagues, I voted for this bill last year. I spoke for it last year. So why would I be one of the 406 that is opposed to the rule and opposed to the bill? Because, my colleagues, this is not the same time, it is not the same conditions.

I guess I played a little bit, mainly from the bench, but I played high school football, and I learned that if a play is run and it does not go anywhere, then that play is not run again. And this is what is attempting to be done with this Amtrak bill. Yes, it passed this House 406 to 4. Does anybody ever talk about what happened after that? There is deafening silence. And the reason is because there was deafening silence. Nothing happened. It went to the Senate, but it was not brought up for consideration, therefore, it never got to the President for his signature.

The fact of the matter is it passed here 406 to 4, and in terms of getting enacted, the score is zero. So that is what will happen again if we run the same play, and that is why there are a number of us who oppose this bill.

There is another reason, too, because a number of the representations that were made last year about the provisions in this bill, why they had to be in there, have since proven to be false in terms of the labor protection language. We were told that Amtrak had to have this because of high labor protection costs. It turns out that Amtrak has laid off almost 2,000 workers at an average cost of a little over $1,000 a worker, less than most severance packages in any private sector bill.

We were told there had to be the indemnification provisions, which Amtrak has to sign indemnification contracts agreeing to bear the responsibility for the costs of any accident, even if the fault is that of the railroad over which Amtrak runs and leases. Well, we were told of course that Amtrak needed this in order to operate and to negotiate these leases. Since then Amtrak has negotiated the trackage rights over all these at no significant markup in cost. Once again, a nonissue.

There is another reason that I oppose this bill, and I will speak further on it. I oppose this rule because the Committee on Rules did not make in order my language to strike the limitations of liability. In this bill, if someone is injured they are entitled to no more than $250,000 in noneconomic damages. Furthermore, they are entitled to no more than $250,000 or three times their economic loss for punitive damages. They also require Amtrak, no matter what the situation, to pay the railroad that may have been at fault for the accident that resulted.

These are onerous provisions. They do not help Amtrak. They will hurt Amtrak in the long run. So I urge rejection of this rule for that reason. And remember, 406 to 4 and the bill never went anywhere. That is why it needs to be changed.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, sometimes I hesitate to stand up here and talk, especially when my blood pressure goes up, but I have been here for 20 years and I came out of the private sector, and in the private sector we never played politics. We did what was right for our business and we made it successful and we made our payrolls. Is

it not too bad that we cannot do the same thing in this body? Maybe this is why we are not held in high esteem by the American people.

With all the good intentions of my good friend, the gentleman from West Virginia, Mr. BOB WISE, and I highly respect him and admire him, let me just quote to my colleagues his statements when this same bill, the identical bill, passed the House with 406 affirmative votes. He said, there has been a good deal of hard work and many difficult compromises on various issues which now enables me to support this final product. I am satisfied that the bill is a reasonable compromise and that it is needed to keep Amtrak moving ahead. I was initially concerned that the Amtrak employees might not be treated equitably in the bill, however, after some changes were made to the bill, a reasonable compromise was reached.

Now my good friend just said sometimes times change. Let me tell my colleagues what the changes are. And Amtrak is terribly important to the Northeast and especially to the Hudson Valley corridor that I have the privilege of representing. Let me tell my colleagues what those time changes are. It means Amtrak is going bankrupt. Now, not only does that affect all of the people that commute back and forth in using Amtrak, but it affects the economy. And more than that, it affects the jobs of every single one of those Amtrak workers.

Now, I have gone back and I have talked to those workers, and they have told me not to let Amtrak go down the drain. Many of them have worked all of their lives there. That is what this is all about.

Now, how did we get to this point? I guess my friend from West Virginia does not remember several months ago when we were fighting the battle of the balanced budget, which is probably the most important thing that we can do in this Congress, is to get this deficit spending under control and stop this sea of red ink which is bankrupting all Americans, particularly those that have to live on fixed incomes; young people who have to buy homes and have to pay mortgage rates that are just astronomical caused by this deficit.

I will give an example. I hate to get off on another subject, but if there is a young couple that just got married and has one child, and now they are making an interest payment annually on their mortgage payment of $6,000, that is not a lot, because it is a low mortgage that produces that, but $2,000, one-third of that entire interest payment they make, is caused by the Federal deficit. We had to get the deficit under control and we did. We bit the bullet and we had bipartisan support in doing it.

But in doing so, then we had to fight to save Amtrak, and it meant come up with a couple of billion dollars extra. And, my colleagues, in order to do that we had to have compromise. And, yes, we had to work with Senator ROTH in the other body, I guess I should not mention names over there, but the quid pro quo is that we would have some reform.

Now, I do not know about all of my colleagues, but I know for sure that the Amtrak workers in the Hudson Valley want us to save Amtrak. They want to save their jobs. This bill will do that. So why do we not just kind of stop the rhetoric? Why do we not just get down to brass tacks and agree that we have to do this and pass this bill?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, to have the distinguished chairman of the Committee on Rules quote my words, print them up, I am honored, and I hope he will do the same thing with the many predictions that I made that turned out to be true on the Contract With America.

But also let me then quote these words today. Yes, a number of us voted for this bill because we were told certain things would happen. They did not happen. This bill went absolutely nowhere in the Senate because of the very provisions that are in the bill today: Labor protection, indemnification, limitation of liability, resulting in Amtrak coming to a quick halt.

If we are serious about wanting Amtrak to keep running, and I want it to run through West Virginia just as much as the gentleman does from New York. If we are serious about wanting it to keeping running, we have to recognize the realities. We can pass this bill without a lot of burdensome baggage on it and we can get it then moving to the Senate and to the President, who, incidentally, has threatened to veto over some of the same provisions they insist on keeping in this bill. We do not have to go down this track again.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MICA], a member of the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Speaker, I rise in support of this rule, this rule, in fact, that will keep Amtrak on track.

Mr. Speaker, let us examine the facts. Amtrak is about to enter bankruptcy, and this Nation could, in fact, risk losing its inner city passenger rail system. We have a bill before us that enjoyed the bipartisan support of 406 House Members in 1995.

This bill includes significant reform of Amtrak that will allow the corporation to do these things: To operate like a business, to cut costs, and achieve financial stability. In addition, the bill will allow the $2.3 billion that was provided in the Taxpayer Relief Act that we passed to be spent by Amtrak on very badly needed capital improvements and investments.

Mr. Speaker, this rule should not be controversial at all. There is no veto threat. This is a badly needed piece of legislation. It allows us to have a Democratic substitute as well as Republican amendments. And H.R. 2247, in fact, is the same bill that this Congress passed 2 years ago on this floor. We need to act decisively to get this rule passed so that Amtrak reform legislation can be enacted to save Amtrak from bankruptcy, and that is the fact.

Mr. Speaker, I would like to address the labor reform measures that are contained in this bill since they are now generating some controversy. These reforms are exactly the same labor reforms that were included in H.R. 1788, the Amtrak reform bill of the 104th Congress.

The reforms were actually endorsed by labor then. In fact, they were even drafted with labor's full participation in the process. These compromise reforms were the product of significant battles in our committee. And since the original committee proposals included even stronger proposals for labor reform, I think the case can be made that stronger labor reforms are appropriate for a company that is indeed facing bankruptcy.

Through the efforts of the gentleman from New York [Mr. QUINN], working in conjunction with organized labor, the committee produced legislation that enjoyed the support of the minority and also of organized labor. In fact, the bill was reported out of committee on a unanimous voice vote. Now labor is claiming the reforms are, in fact, unfair and this is what they have indeed supported in the past.

I tell my colleagues what I think is unfair. The status quo to which labor is attached is unfair, and it is unacceptable. It is unacceptable to this Congress and it is unacceptable to the American taxpayers who foot the bill for a system that is near bankruptcy.

Under current law, Amtrak must pay a worker who is laid off due to a route elimination or frequency reduction up to 6 full years of full wages and benefits. Currently, over 75 percent of Amtrak employees are eligible for the full 6 years of benefits based on their length of service. This is what labor is, in fact, trying to preserve. They have a sweetheart deal that Congress handed to them a number of years ago on a silver platter when Amtrak was created and they do not want to give that up. Those are the facts.

The same dynamic principle applies to the ban on contracting out. Right now Amtrak cannot contract out any work, other than food and beverage services, if it would result in the layoff of a single employee in a bargaining unit. This effectively prohibits almost all contracting out, in fact, of work by Amtrak.

How is Amtrak supposed to rationalize the system and save money? This is a company about to, in fact, go bankrupt; to go belly up. But if it wants to downsize its employment base, if it has to pay everybody wages and benefits for 6 years, I ask how is that possible?

Congress does not require the airlines to pay their employees for 6 years in the event of a layoff; why should we make Amtrak do that? And Amtrak cannot even achieve any savings through contracting out work as its competitors in the airline industry have been able to do.

Mr. Speaker, this rule is indeed fair. Amtrak reform legislation is crucial to the future of passenger rail in this country. Let us pass the rule and let us move on to general debate on this important bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts, [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in opposition to the Amtrak reform bill because in its current form the bill betrays Amtrak's employees' rights, it compromises the safety of Amtrak's passengers, and it would deny just compensation for victims of passenger rail accidents.

This bill would be better known as the Simon Legree Act of 1998. It essentially proposes to balance the books of Amtrak on stripping away the income of the workers that lay our rails, that essentially make our rails safe and secure, and it would impose an undue burden on those victims of any rail accidents that would no longer be able to look to their legal rights.

□ 1515

The fact of the matter is that our legal system in this country plays an important role in making certain that victims are provided the assurance that they will receive benefits if in fact they are hurt or injured in the course of normal day-to-day operations. This is a basic security which has always been the balance of justice in America. It is a system that has worked well for over 200 years. Why should we cut out Amtrak from that balance that we achieve in every other aspect of American life?

Under the guise of financial interests for the insolvent Amtrak system, this bill dresses up a bunch of unfair labor provisions and calls them reforms. In direct violation of their collective bargaining agreements, this bill would eliminate wage protections for displaced Amtrak workers, protections that have been in place for employees for over 70 years. The truth of the matter is Amtrak employees have not gotten anything close to the kind of cost of living benefits that are necessary in order to keep up with the rising costs that almost all the American people have been able to enjoy.

What we have here is a system that is being put in place and imposed on the poor workers of that system that will, I believe, unduly shift the balance of fairness and justice onto the backs of the people that use the Amtrak system, the people that build the Amtrak system and those few individuals that may be hurt by a rail accident.

To further undermine the unions, this bill would also make contracting out Amtrak jobs a routine procedure by ending current protections against such practices. I strongly urge and support the LaTourette-Traficant amendment, which will retain statutory wage protections, collective bargaining, and the rights of Amtrak workers to keep their jobs without the fear of losing them to cheaper, less skilled labor.

I also encourage and support the efforts to repeal the bill's caps on punitive and non-economic damages. These provisions would deny just compensation to victims of passenger rail accidents and should be removed.

Mr. Speaker, Amtrak service is important to the Northeast corridor, the heavily traveled route between Boston and Washington, where almost 600,000 people use the trains each day. Amtrak service gives my constituents an alternative to fighting traffic jams, it contributes to reducing air pollution from auto exhaust and it keeps 27,000 cars off our highways each and every day in this country.

It is no secret that a pending Amtrak strike is being held at bay with the hopes of the passage of this bill. We must do all we can to avert a strike that would be devastating for the commuters in many of our districts. I believe that we can pass the underlying bill by a wide margin if we strip out these anti-labor provisions and limits on liability.

Therefore, I urge my colleagues to support the LaTourette-Traficant amendment and the Democratic substitute and send a real reform bill, one free of poison pills, to the President's desk.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure, a gentleman who is an expert on this matter.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind words.

Mr. Speaker, I do not have a billboard as the distinguished chairman of the Committee on Rules had on who said what, but I do have the transcript of the debate in 1992, August 11, the last time that an Amtrak authorization bill passed the House to be enacted by the President. It is remarkable to note in that debate that not a single question was raised by either Democrat or Republican about labor issues. Not a single question. It passed on a voice vote in the House. It passed overwhelmingly on suspension later on when the conference report came back. Not a single question was raised about labor rights at a time when there are the same issues as there are today.

So if we want to talk about consistency, one might be reminded by Samuel Pepys, the British poet and writer who said, ''Consistency is the hobgoblin of small minds.'' Because there is not consistency. There is a significant change in what has happened with Amtrak and with the issues underlying the effective operation of Amtrak. But that is not what I want to discuss at this time. There will be time, plenty of time in the general debate and on the amendments later.

What I rise for here is objection to the rule that was crafted. It is not a fair rule. Democrats were not given an opportunity to offer pinpointed, specific amendments. Instead, what was done was to carefully, thoughtfully, and cleverly make in order the LaTourette amendment to rectify the passenger rail labor rights which the gentleman from Ohio [Mr. LATOURETTE] requested and which we supported on the Democratic side, and then to make as a substitute to LaTourette an amendment by the gentleman from New York [Mr. QUINN], which vitiates LaTourette, reinstates essentially the committee bill, but corrects a little problem that was opened by obiter dictum language in the committee report to suggest that the Surface Transportation Board might extend these provisions of eliminating labor protection for freight rail and transit labor.

So now we have the Quinn amendment that goes just so far, but not quite far enough, and the body never gets to vote on the underlying real issue of rail labor, the LaTourette amendment.

And then the rule makes in order something we did not even ask for, a substitute on our side. Our committee has historically come to the Committee on Rules and asked for open rules. The chairman has always praised the leadership on both sides for doing so, both during the times when he was ranking member in the minority and now in his service as chairman. He has essentially remained faithful to that premise. But not in this case, and that is why I object to this rule. It is unfair. It sets up a process by which labor must fail or Democrats are going to be substantially divided on a range of issues and Members on the Republican side who might ordinarily be favorable to labor issues but divided on consumer questions are necessarily going to be divided.

It is a fundamentally unfair rule. You did not lay the issues out and give an opportunity for each question to be debated and voted on its own merits. That is why I object to the rule.

I think, in all fairness, that the gambit has failed, because labor is not taking the bait and the consumer groups are not taking the bait, and I think that in the end we are going to prevail because of the unfairness with which the issue has been handled in the present rule.

I urge my colleagues to vote against the rule. It is an unfair rule. We should not have that kind of mischief visited in the legislative process. We ought to be able to vote on issues on their merits without these little games being played.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to

the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me address my good friend the gentleman from Minnesota [Mr. OBERSTAR], because he is a good friend. He is a highly respected Member of this body. I admired him even when I was a member of the committee many, many, many years ago. I really am surprised at his protestations here this afternoon, because when he testified before the Committee on Rules we discussed at length the kind of rule that we would make in order in trying to be fair to everybody. We all know that there are few precious days left before this Congress will adjourn. If we are fortunate enough to adjourn by November 7 or even the 14th, we will only be able to accomplish about one-third of all that is planned between now and then as far as passing the important legislation on this floor.

But let us get to the rule itself. The gentleman from Minnesota knows that the gentleman from Ohio [Mr. LATOURETTE] was allowed to offer an amendment, which he supports. It is strongly supported by labor. We also made in order a substitute amendment to the LaTourette amendment. It was characterized, I think, by the gentleman from Minnesota as the LaTourette amendment being a whole loaf and the Quinn amendment being a half a loaf. Both of them are supported by labor. Both of them are pro-labor, I guess you could characterize them that way. So that when Members come to the floor later on today, they can either vote in favor of the LaTourette amendment, the whole loaf, or they can vote against it by voting for the Quinn amendment. It is as simple as that. This is the normal procedure that we follow in this House.

We also discussed at length a number of other amendments that were offered from Republicans and Democrats. We told the gentleman from Minnesota that he, being the ranking member, was entitled, with fairness, to offer a substitute in which he could put any amendment that he wanted to, the Wise amendment which was a very important amendment, in his opinion, the Vento amendment or I believe there was a Jackson-Lee amendment, but any of those or any part of those could have been included in a Democrat substitute and as I understand it, we gave them something we very rarely do and something the Democrats never did in my 20 years here, and that was to give the minority the right to offer a substitute, sight unseen, providing it is germane to the bill. We did that in an act of being as fair and open as we possibly could.

So I think the gentleman protests too much. I think we really have been open and fair, much more fair than the Democrats ever were to us on this side of the aisle.

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

Mr. SOLOMON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding. At the hearing of the Committee on Rules yesterday evening, I specifically said my recommendation is make in order the LaTourette amendment, make in order the Quinn amendment, they deal with different aspects of the labor issue, and I specifically also said, ''But do not play a little game with us by making the Quinn amendment in order as a substitute for the LaTourette.'' I said that, I was very, very clear about that because it was a very important point for me. I did not ask for an amendment on our side. I asked for other amendments to be made in order. I did not ask for a substitute. The Committee on Rules crafted a rule that plays both ends against the middle. I do not believe that the gentleman from New York [Mr. QUINN] asked for his to be a substitute.

Mr. SOLOMON. If I could just reclaim my time briefly to say, the question was posed that the Democrat side of the aisle did not have all of the information available and we were requested to leave it open so that you could present a sight unseen substitute. We did exactly as we were asked.

Having said that, please come over and vote for this fair rule and vote for this very vital piece of legislation.

Mr. MOAKLEY. Mr. Speaker, just to correct my dear friend, my chairman, it was not our side that asked to keep it open. It was the gentleman from Virginia [Mr. SCOTT], who was testifying before the panel on a different bill. Secondly, if the chairman looks at the records, when I was chair, we did give unseen amendments to the minority leader on many occasions. You can look in the records.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I will yield to the gentleman, but I just want to start out here and say something that I think is important. I am going to vote for the rule. I appreciate the fact you allowed the LaTourette amendment. It would probably be called Traficant-LaTourette if it were not for the politics here. Both sides are playing politics.

I am concerned about workers. There is not a more wily strategist in the House than the gentleman from Pennsylvania [Mr. SHUSTER] and really the gentleman from New York [Mr. SOLOMON] has been very fair. There is an opportunity for working people, and just let me say this before we go on. The Quinn amendment says freight and transit workers will not be impacted by this bill.

□ 1530

The LaTourette-Traficant amendment says that, too.

Now, let us tell it the way it is. Labor came out and tried to beat Republicans, but there are a whole lot of working people that did not agree with some of those endorsements and voted for you, too.

I think the collective bargaining agreement should be allowed to be intact. There has been an awful lot of contracting out by Amtrak that has not even been contested by the workers. It was agreed.

I believe, and I say this straightforward, the Republican Party has an opportunity to say, ''Look, you in labor tried to screw us, but we are more concerned about the rights of all people.'' And I honest-to-God believe there is a shot to pass LaTourette-Traficant.

I agree with the gentleman from Minnesota [Mr. OBERSTAR] that if that Quinn amendment passes, and the way the bill has been structured I guess it has been set up by the craftiest Member in the House, maybe in its history, the gentleman from Pennsylvania [Mr. SHUSTER], and I don't blame him, but there has not been a better man, and he is a pit man, he is a pit man, I might say, and he knows those steel workers, those coal workers, those workers at Amtrak and related labor people.

I am just saying, look for fairness. I am going to vote for the rule, and I want Members to consider what I say in other substantive points during the debate on this bill. I am proud to join with the gentleman from Ohio, STEVE LATOURETTE, my neighbor. He has done an outstanding job. He, like many Republicans, contrary to what the press might say, has been a friend of labor and working people.

So, the Republicans have an opportunity to demonstrate, I honest-to-God believe this, and the fact is that most of the many working people voted for them or you would not be here in the majority. Believe me when I tell you that. Look for the fairness of the bill.

I wish you had structured the rule a little different, Mr. Chairman, but I want to thank you for allowing the vote on it in the first place.

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

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I just want to make it very clear that labor opposes the Quinn amendment, because passage of Quinn forecloses an opportunity to vote ''aye'' on LaTourette-Traficant.

Mr. TRAFICANT. Mr. Speaker, reclaiming my time, I know that. We want to defeat the Quinn amendment, but we have an opportunity to do it, and we have an opportunity to debate it before the Quinn amendment is offered. I am hoping that people understand the substance of that, and not get tied up in the politics.

Mr. MOAKLEY. Mr. Speaker, I yield 3 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. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am certainly not here to dispute the need for this legislation. In fact, I am a strong Texas advocate for Amtrak. In fact, we are certainly working to maintain our sources of intercity transit in our State, and I am a strong advocate of that.

Certainly, I am concerned about pieces of this legislation that deal with removing employee and various other rights as relates to working conditions, and I hope we address that.

But I am also here to speak on behalf of an amendment that I attempted to offer and that I think is extremely important, and that is H.R. 2247 removes or caps the noneconomic damages at $250,000 in this legislation, regardless of the nature of an individual's injury. It caps punitive damages at $250,000, or three times economic damages, whichever is greater.

We have had this debate when we talked about tort reform. That clearly weighs on the side of the more economically endowed, the CEO versus the little girl who lost her leg. Each leg is of similar value, because they do not have a leg, but the CEO gets more than the little girl with no job.

Regardless of the cause of that injury, it allows Amtrak to indemnify other railroads for even gross negligence and recklessness. I offered an amendment to correct that, as I said, and that was not included.

Let me address the issue of a cap on noneconomic damages. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss.

This value may be completely unrelated to the type of injury suffered, and may fail to fully compensate that individual's loss. This value may be completely unrelated, as I said, to the type of injury suffered, and may fail to fully compensate the injured passenger for his or her loss.

H.R. 2347 as written says the loss of a leg is worth $250,000, at most. The loss of both legs is worth $250,000, at most, and the loss of both legs plus an arm is again worth, at most, is worth $250,000.

As I said earlier, this cap discriminates against women, children, the elderly and the poor who may not have the same substantial economic losses, by placing greater value on economic losses than on noneconomic losses. Effectively what this does is it says that injuries such as the losses of senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement are not real losses and need not be compensated.

We really need to correct this. I do believe that this legislation is important legislation, but limiting these damages, as well as punitive damages, which are in fact the basis upon which industry reforms itself, is distracting from this very good legislation.

I would hope that we would be able to cure this by relieving us of these caps to be fair to all citizens.

Mr. Speaker, I rise today in opposition to the rule on H.R. 2247, the Amtrak reauthorization bill.

H.R. 2247 is an important piece of legislation which authorizes $3.4 billion in continued Federal support for Amtrak through fiscal year 2000. H.R. 2247 also facilitates the privatization of Amtrak by decreasing its costs and increasing its revenues, in order to eventually eliminate its reliance on Federal subsidies. I am not here to dispute the need for such legislation, but instead to address concerns raised by some of the more controversial provisions of the bill, specifically those dealing with liability issues.

H.R. 2247 caps noneconomic damages at $250,000 regardless of the nature of an individuals' injury, caps punitive damages at $250,000 or three times economic damages, which ever is greater, regardless of the cause of that injury, and allows Amtrak to indemnify other railroads for even gross negligence and recklessness.

I offered an amendment before the Rules Committee last night which would have struck these unfair and arbitrary provisions from the bill. However, neither my amendment, nor any other amendment with the same or a similar purpose, was made in order under the rule.

Let us first address the issue of the cap on noneconomic damages that is included in H.R. 2247. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss. This value may be completely unrelated to the type of injury suffered and may fail to fully compensate the injured passenger for his or her loss. For example, H.R. 2247 as written, says that the loss of a leg is worth $250,000 at most, the loss of both legs is worth $250,000 at most, and the loss of both legs plus an arm is again worth at most $250,000.

A cap on noneconomic damages discriminates against women, children, the elderly, and the poor who may not have substantial economic losses by placing greater value on economic losses than on noneconomic losses. H.R. 2247 effectively says that injuries—such as the loss of one's senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement—are not real losses and need not be compensated as completely as the loss of salary.

Consider the case of an accident in which two individuals—a business executive earning $1 million a year and a mother who stays at home to care for her children—sustain the exact same injury. The executive might be able to recover $1.25 million—$1 million for a year of lost salary and up to $250,000 in noneconomic damages. The mother, who does not earn real wages or a salary for her job, would be limited to a maximum of $250,000 for her loss.

By limiting compensation for noneconomic damages, women, children, senior citizens, and others whose injuries cannot be measures in lost wages will become second-class citizens when it comes to claims for rail accidents.

A second area of concern in H.R. 2247 is the provision capping punitive damages at $250,000, or three times economic damages, whichever is greater. A cap on punitive damages threatens public safety. While punitive damages are rarely awarded, they remain an important tool in forcing reckless or malicious defendants to change their conduct and in deterring others from recklessly disregarding public safety. Punitive damages ensure that safety devices are installed and properly maintained, that speed limits are followed, and that employees are trained to follow safety procedures. Given the current cost-cutting climate at Amtrak, the safety incentives offered by the threat of punitive damages are needed now more than ever.

It is not necessary to look for in order to find cases in which a cap on punitive damages would have been inappropriate. The 1987 accident in Chevy Chase, MD that resulted in 16 passenger deaths and 175 passenger injuries, was completely preventable. The engineer and brakeman of a Conrail train, high on marijuana and alcohol, drove the train 62-miles-per-hour in a 20-miles-per-hour zone blasting through stop signs before slamming head first into an Amtrak train filled with passengers. More recently, the National Transportation Safety Board stated that last year's Silver Spring accident between a MARC commuter train and Amtrak that resulted in 11 deaths was preventable had Federal regulators and safety officials been more aggressive in enforcing safety requirements.

Finally, I would like to direct your attention to the troubling indemnification provisions in H.R. 2247. These provisions are clearly contrary to public policy. Even though indemnification agreements between Amtrak and rail owners are common, several courts, including the court in the Chevy Chase, MD case, have refused to uphold these private agreements where the freight railroads are themselves responsible for the crash and engaged in particularly egregious conduct. The courts found it against public policy and contrary to the interests of public safety to uphold an agreement that would completely immunize freight railroads for truly outrageous conduct that caused death and serious injury. The courts have recognized that legalizing private agreements that force Amtrak to pay for a freight railroad's liability—regardless of how grossly reckless or negligent the freight railroad is—will only lessen the pressure on freight railroads to ensure that their tracks are as safe as possible for passenger trains, and in so doing, will lead to further accidents.

There is no reason freight railroads should be exempt from the consequences of their actions, just because an Amtrak train is involved in the accident. As written, the bill establishes an irrational double standard. Under it, a motorist who is hit by a freight train because the freight railroad's grade-crossing signal malfunctions would be entitled to full damages from the freight railroad, including punitive and noneconomic damages. If the motorist was hit by an Amtrak train, however, because of the same malfunctioning signal, the motorist could collect only limited punitive damages and noneconomic damages from Amtrak, and no damages could be collected from the freight railroad—even though the freight railroad was equally at fault in both cases.

We must consider that the indemnification provision in H.R. 2247 does not just pose a threat to public safety, but is also potentially

quite costly. At a time when the financial viability of Amtrak is at stake, why should taxpayers pay for the gross negligence or recklessness of another rail carrier?

My colleagues, I ask you to consider the impact of the liability restrictions in H.R. 2247 on the safety of rail passengers as you cast your vote on the rule to H.R. 2247. I urge you to consider these provisions and then to vote against the rule that does not allow an amendment to address these alarming provisions.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he might consume to the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to save Amtrak. That is what we have been dedicated to. Now, I can tell you, as I am sure many of you know, there are some in this body that do not want to save Amtrak. In fact, I was in a meeting this morning with several Members where we had a hard sell because they were telling us why are you trying to save it? It is about to go into bankruptcy. It is a failure. Let it go down the tubes.

But we need Amtrak, but we need an efficient Amtrak. And it is the sad truth. In fact, virtually everybody agrees, it is on a steep path to bankruptcy. The GAO report says that, the panel of experts that Congressman OBERSTAR and I together appointed in order to come back and give us their recommendations said that. Everybody acknowledges it is on a steep path to bankruptcy.

We need to reform it, but we also need the votes to reform it. And it is a fact that virtually the same legislation before us today passed this body in the last Congress 406 to 4. It is almost a bit embarrassing to tell you that every Member who stood up today, who spoke against this rule and this bill, is on record as having voted for this very legislation in the last Congress.

Now, what changed? What changed is our friends in rail labor apparently think they can get a better deal, and so they have said they now oppose this.

I would have to say, while I have the greatest respect for my colleagues, this is the biggest flip-flop since Humpty Dumpty fell off the wall. To have 406 Members vote for this bill, every Member who spoke against it today, to now stand up and speak against it, when he, in fact, voted for the bill.

We need to save Amtrak. There is $2.3 billion already set aside for Amtrak if this reform legislation passes. That is extraordinary. It puts us on the way to saving a needed transportation mode in our country.

Some of my friends have talked about how labor will be hurt, how labor will be hard done by.

I represent Altoona, PA, one of the big railroad centers of America. I am perhaps one of the few Members of the Congress who actually worked on the track gang on the railroad. We heard it said earlier about how the track gang workers, the maintenance of way, they are now called, would be hurt by this.

Let me tell you, the average maintenance of way worker on Amtrak makes $41,000 a year. I don't begrudge that to them. As a former gandy dancer, and that is what they called us back in those days. As a former track gang worker myself, I am delighted to see that the fellows that I used to work with in a previous time, today are making that kind of money. There is nothing here which will reduce those salaries, those incomes.

But if we do not pass this legislation, if we do not pass this reform, there is not going to be an Amtrak. We need to save these jobs.

We are told about the Senate not moving, that is a fact, the other body not moving last year. That is a fact. We did our job. We passed the reform. They did not move.

However, it is very significant to note that this year, in reconciliation, we sat down and cut a deal with the Senate which was that $2.3 billion would be made available to Amtrak, coupled with the reform legislation, and the Senators in conference were willing to go along with that. We had an agreement with the Senate to pass virtually this reform language, and unlock the $2.3 billion for Amtrak.

Well, we could not get agreement downtown, so in reconciliation, we had to drop it.

We are back here trying to do the responsible thing, and that is save Amtrak, and trying to do it in a fashion that will unlock the money, and trying to do it in a way that really this body previously overwhelmingly approved. My good friends have talked about not being a fair rule, and my good friend from Ohio talked in terms of ''my rule.'' I wish it were true, but, of course, it wasn't my rule. The Committee on Rules writes rules; I did not craft it.

In fact, initially it was suggested to me that it should be a closed rule, and the minority would have their opportunity to offer a motion to recommit. I objected to that. I said, no, I believe the minority should have an opportunity to offer their substitute, and the Committee on Rules has, indeed, provided that the minority does have the right to offer their substitute.

I generally like our committee to bring open rules, but when you have a piece of legislation that passed by a vote of 406 to 4, and we are coming down to the closing days of this session, it does not seem unreasonable to say if we bring back that which already passed 406 to 4, do we really need to have an open rule?

Let us give the minority their rights. Let us give them the opportunity to offer their substitute. We offer our bill. And that is why it is in front of us as it is today.

So I urge you, if you care about saving Amtrak, if you care about unlocking the $2.3 billion that can be there for the capital improvements that are so necessary, I urge Members to support this rule, to support us in our efforts to save Amtrak, because this Member, at least, and I believe I speak for many, does not want to see Amtrak go into bankruptcy.

Ms. PRYCE of Ohio. Mr. Speaker, the debate provided for under this rule should be more than sufficient to address any new concerns that have arisen since the House last considered this measure and passed it overwhelmingly by a vote of 406 to 4. Therefore, I urge my colleagues to support this fair and generous rule.

Mr. Speaker, 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. MOAKLEY. 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 226, nays 200, not voting 7, as follows:

[Roll No. 520]

YEAS—226

Aderholt	Davis (VA)	Hobson
Archer	Deal	Hoekstra
Armey	DeLay	Horn
Bachus	Diaz-Balart	Hostettler
Baker	Dickey	Houghton
Ballenger	Dooley	Hulshof
Barr	Doolittle	Hunter
Barrett (NE)	Dreier	Hutchinson
Bartlett	Duncan	Hyde
Barton	Dunn	Inglis
Bass	Ehlers	Istook
Bateman	Ehrlich	Jenkins
Bereuter	Emerson	Johnson (CT)
Bilbray	English	Johnson, Sam
Bilirakis	Ensign	Jones
Bliley	Everett	Kasich
Blunt	Ewing	Kelly
Boehlert	Fawell	Kim
Boehner	Foley	King (NY)
Bonilla	Forbes	Kingston
Bono	Fowler	Klug
Brady	Fox	Knollenberg
Bryant	Franks (NJ)	Kolbe
Bunning	Frelinghuysen	LaHood
Burr	Gallegly	Largent
Burton	Ganske	Latham
Buyer	Gekas	LaTourette
Callahan	Gibbons	Lazio
Calvert	Gilchrest	Leach
Camp	Gillmor	Lewis (CA)
Campbell	Gilman	Lewis (KY)
Canady	Goode	Linder
Cannon	Goodlatte	Livingston
Cardin	Goodling	LoBiondo
Castle	Goss	Lucas
Chabot	Graham	Manzullo
Chenoweth	Granger	McCollum
Christensen	Greenwood	McCrery
Coble	Gutknecht	McDade
Coburn	Hall (TX)	McHugh
Collins	Hansen	McInnis
Combest	Hastert	McKeon
Cook	Hastings (WA)	Metcalf
Cooksey	Hayworth	Mica
Cox	Herger	Miller (FL)
Crane	Hill	Moran (KS)
Crapo	Hilleary	Morella

Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
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
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
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
Young (AK)
Young (FL)

NAYS—200

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
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
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)
Hefley
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
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
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Chambliss
Cubin
Gonzalez
Lantos
McIntosh
Schiff
Strickland

□ 1604

Mr. MORAN of Virginia, Mr. JEFFERSON and Mrs. MINK of Hawaii changed their vote from ''yea'' to ''nay.''

Mr. BRYANT and Mr. SMITH of Texas changed their 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.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 270 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. 2247.

□ 1605

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. 2247), to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, with Mr. KOLBE 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 Pennsylvania, [Mr. SHUSTER] and the gentleman from Minnesota [Mr. OBERSTAR] each will control 30 minutes.

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

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

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. I am dedicated to trying to save Amtrak, but it is no secret that are several Members in this body, and in the other body, who would just as soon kill Amtrak.

So what we have tried to do is put together a compromise which we can get through to reform Amtrak, which will unleash the $2.3 billion that has already been set aside for Amtrak if we are able to get reform through.

Mr. Chairman, much of this debate took place during the rule, and so there is no need for me to restate what has been stated many times already with regard to the debate that took place concerning the rule. The bottom line is if we do not reform Amtrak, if we do not pass legislation to reform Amtrak, Amtrak goes into bankruptcy, there will be no Amtrak. It is that simple.

In the last Congress virtually the same legislation passed this body 406 to 4, as has been emphasized in the previous debate, and that needs to be reemphasized here. This is our last, best hope of saving Amtrak and saving the jobs of the many good people who work at Amtrak; also for saving Amtrak and saving the very positive implication that the saving of Amtrak will have on the whole railroad retirement system.

So for all of those reasons, I would urge support for this legislation.

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. No informed observer denies that the company is at best only a few months away from the bankruptcy court. That includes Amtrak itself, the General Accounting Office, and the expert bipartisan panel that our committee formed to examine Amtrak's condition.

This is no longer a postponable problem: Amtrak has only a few months to live if it is kept in the straitjacket of Federal laws that prevent it from operating on a rational, business-like basis. This bill removes that straitjacket, and frees Amtrak from the statutory micromanagement that has brought it to the brink of financial collapse.

These structural changes were drafted on a bipartisan basis with the participation and agreement of the minority and of rail labor in the 104th Congress. They include: Establishing a new reform board of directors; giving Amtrak a fresh start in its capital and stock structure; removing the numerous Federal mandates that preclude rationalizing its route system; and organizing itself for business efficiency. Up to now, the company has never been permitted to do any of these things—unlike other transportation companies.

This bill should be very familiar to most Members, because you voted for it by a rollcall of 406 to 4 less than 2 years ago. There are only technical changes in this bill to reflect the passage of time, plus one substantive change. We have authorized the reform Board of directors—if it chooses—to recommend a plan to Congress to implement one of the key ideas of our expert panel—the separation of Amtrak into two distinct corporations, one for infrastructure, and one for operations. Of course, even if the board made such a recommendation, it would take future congressional action to implement such a plan.

Among the restrictions this bill removes are the current statutory requirements for up to 6 years of labor protection—that is, full salary and benefits, to any employee adversely affected by a discontinuance of service a reduction of service below three trains weekly, or even a 30-mile relocation. But remember, this bill was a bipartisan compromise: It does not forbid Amtrak from providing protections for its employees—if merely places these issues in collective bargaining, without having the Federal Government dictate what the protections will be by statute.

The bill also addresses the continuing problem of unlimited tort liability exposure. Almost everywhere except the Northeast corridor that Amtrak owns, it must operate over the tracks belonging to private-sector freight railroads. Amtrak, by Federal law, has access to those tracks, whether the freight carrier likes it or not. Therefore, the liability exposure that is placed on the freight railroads is involuntary in nature. All this bill does is to place reasonable limits on the punitive and non-economic damage exposure in passenger train accidents. It has no effect on the freight railroads' own freight-carrying operations. If we do not make these sensible reforms, however, Amtrak may be facing prohibitively expensive access requirements, because Amtrak still has to pay

the freight railroads, even under compulsory access arrangements.

There are those, Mr. Speaker, who say that the only way Amtrak will ever be fixed is by going bankrupt first. I do not share this view, because a shutdown would be a great blow to our transportation system, to our commuter rail operations, and even to the Railroad Retirement System.

But let's look at an Amtrak bankruptcy, because there are too many constituencies here who are still in denial about Amtrak and its finances. If Amtrak goes under, the GAO estimates that labor protection payments alone would total up to $5 billion. Amtrak's commercial debt—not to the Federal Government—is about $1 billion. So that's $6 billion in liabilities, with virtually no possibility of paying those claims out of Amtrak's assets. And just this week, the Comptroller General issued a legal opinion in response to an inquiry from Chairman KASICH and myself. He ruled that none of Amtrak's liabilities—labor protection or commercial debt—constitute claims against the U.S. Treasury.

What does this mean? It means that if Amtrak's labor force and management do not cooperate and help turn this company around there will be no golden parachute of 6 years of labor protection. The golden parachute has already collapsed, and if they help drive Amtrak into bankruptcy, Amtrak's employees are simply going to be standing in line with a lot of other unsatisfied creditors who collect little or nothing.

I hope, Mr. Speaker, that these rather stark realities will spur Members to realize that this is the last train out of the station. If this bill is not enacted, Amtrak stands virtually no chance of survival for more than a few months at best.

What about some good news? Well, if we do approve this reform legislation and the President ultimately signs it into law, then Amtrak will have access to over $2 billion in much-needed capital funds that have been set aside for it under the Taxpayer Relief Act of 1997. So this bill not only presents the opportunity to avoid an immediate Amtrak collapse; it also will provide Amtrak with immediate access to desperately needed capital funds. I know from our committee's hearings that Amtrak has a severe shortage of capital, and has, in fact, been cannibalizing its physical plant and equipment for some time, because it did not have the resources to do an orderly capital replacement program. Together with the efficiencies made possible by this bill, the $2 billion of additional capital will go a long way toward turning Amtrak around and letting it become a healthy, self-sustaining company.

Finally, Mr. Speaker, let me tell all Members on both sides of the aisle, this bill is not about free votes. History has placed us in positions of responsibility in a time of transportation crisis. Unlike some of our predecessors in this body, we do not have the option of punting. It's put-up-or-shut-up time, and currying favor with special interests today will not solve any of these problems that have been getting worse for 26 years. If you can't stand up and be counted on a sensible bipartisan reform like this, then don't delude yourself into thinking that there's going to be a second chance. That's a pipe dream.

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

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

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

Mr. Chairman, to begin with, I would like to inquire of the gentleman from Pennsylvania [Mr. SHUSTER], is my understanding correct that this afternoon we are going to do only general debate?

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

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

Mr. SHUSTER. Mr. Chairman, the gentleman is correct.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, presumably we will begin tomorrow morning at some time? Has there been an announcement by the leadership of when we may anticipate?

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, I have no further information other than the statement that I will move that the committee rise following general debate.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, that leaves our side somewhat puzzled. During the debate on the rule there was some statement made about the shortness of the session and the urgency to move this bill ahead. Now it seems that the urgency has faded and I am very puzzled by this, and I am wondering what has happened on the other side of the aisle.

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, the decision was made by the leadership during the vote to not proceed beyond general debate today, and that decision is above my pay grade.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, I would say that I did not think there was much above the gentleman's pay grade.

Mr. Chairman, it reminds me of the last Congress when this bill was before the committee and there was a vote and then we suspended and then we came back, then the bill was pulled again, and now this is the third time. I am curious as to what really is going on here. I am very curious about what has happened.

Mr. Chairman, I also wanted to mention that during debate on the rule, as the gentleman from Pennsylvania was making his comments, I noted with great interest his reference to service on the track gang and I wanted to suggest at the conclusion of the gentleman's remarks that we might form a track gang caucus, since this Member also worked in the iron ore mines on the track gang pounding oil and bumping rail.

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

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

Mr. SHUSTER. Mr. Chairman, that is back when men were men.

Mr. OBERSTAR. Mr. Chairman, this is extremely important legislation. It puzzles me, therefore, why we have a truncated process today if it is that important and there is so little time remaining in the session that we are to have this restricted rule and this expedited process that we cannot proceed through to conclusion tonight.

Amtrak's financial situation is indeed critical. We do need to pass reform legislation. We do need to pass reauthorization legislation to enable Amtrak to operate efficiently and release the funds that have been made available in the tax legislation.

Mr. Chairman, Amtrak's survival is absolutely vital to the Nation's transportation system. Most passengers now travel by car or plane, but those modes use enormous amounts of energy. They have substantial adverse environmental impact. There are limits to our ability to accommodate more traffic by building new highways and new airports. We need rail service.

Mr. Chairman, we need a highly efficient passenger rail system as other countries in the world have. We ought to be able to have 175-mile-an-hour passenger rail service in America as they do in France or 300-mile-an-hour rail service, as they will have in Germany with the construction now underway of the Maglev train system between Hamburg and Berlin or the 180-mile-an-hour passenger rail system in Japan, the Shin-Kansen, that carry 254 million passengers a year. But we do not have that in the United States, and we ought to make that investment. And this legislation would move us in that direction if it was the right kind of legislation.

Mr. Chairman, we agree with much of what is in this bill and what passed the House in 1995. But we believe it is bad public policy to go forward with provisions in the bill that adversely affect labor and the consumer interests that are adversely affected by the liability caps.

Mr. Chairman, there will be amendments to address those issues and I will support those amendments. But it will be extremely difficult to pass this legislation in its present form because the provisions in the bill dealing with labor and liability are opposed by the administration and, indeed, caused the bill in 1995 to die in the other body.

□ 1615

The same provisions are there this time. They will again make it impossible to include Amtrak reform, to see Amtrak reform through to enactment, and they made it impossible to see Amtrak reform through in the reconciliation package that passed the Congress recently.

It is puzzling to us why this restrictive labor language is necessary. The obligations in current law to protect the rights of working men and women that are freely negotiated between labor and management, which would be eliminated by this legislation, are not an impediment to the efficiency of Amtrak.

In the year and a half, almost 2 years now since the House passed the much

ballyhooed bill in 1995, we have had an opportunity to see what the effect has been of labor protective provisions. In this period that has elapsed since passage of that bill, there has been a net loss of 2,000 jobs at Amtrak. The cost has been an average of $1,000 per employee. That nets out to about $2 million.

Amtrak adjusted service, laid off 10 percent of its work force. It cost roughly $2 million to do that. I do not see how that is an impediment. I do not see why we need to eliminate protection of labor's rights freely negotiated in order to save Amtrak. How does that $2 million save Amtrak?

In fact, in a July 28 letter from the chairman of Amtrak, Tom Downs, he stated:

> I testified in front of the Senate Finance Committee with Sonny Hall, and I stated in the hearing on the record, that Amtrak does not experience significant costs in C–2 expenses; that is, labor protection expenses, so that the impact of the repeal of C–2 would not save us any significant funds except in the ultimate bankruptcy of Amtrak. I also stated I would prefer to be able to negotiate C–2 provisions with labor than to have Congress mandate changes.

That same view was expressed by Mr. Robert Kiley, spokesman for the committee's task force of experts who reviewed the Amtrak financial situation, that the chairman had appointed. At a press conference on the task force report, Mr. Kiley said that the labor protection issue is a red herring.

Well, it is a red herring. Why it has to be the centerpiece of this legislation is beyond me, Mr. Chairman. I simply do not understand it. I do not know why they want to take it out on Amtrak labor, on rail lab labor under the guise of somehow saving Amtrak. The labor and liability provisions are bad public policy.

On the labor side, it takes away from employees all rights on severance pay and all rights on contracting out. The provisions in the bill abrogate not only labor protection provisions in law, but those provisions that labor and management together have negotiated. Why do you break a contract?

My father worked in the iron ore mines all his life. He said the only guarantee against the company is your union contract. It cannot be taken away from you. But here in this legislative body, if we pass this bill, by legislative fiat we will take away what labor has freely negotiated with management. That is wrong. I will not stand for it. No one else should stand for it in this body.

The reported bill also establishes new procedures for negotiations on labor protection and on contracting out. And they go far beyond and substantially depart from the balance process established in the Railway Labor Act.

The liability provisions in the bill create serious inequities. The bill would cap noneconomic damages, such as damage for pain and suffering, in a manner that favors affluent plaintiffs. The cap is economic damages plus $250,000. That means the higher the economic damage, the higher the added damage for pain and suffering.

For example, take a wealthy corporate executive who can show economic losses or damage of a million dollars. That person gets in an additional $1.25 million in noneconomic damage for pain and suffering. A child or an unemployed person with the same pain and suffering is limited to $250,000. That is not right. We should not do that. We should not make those kinds of changes. We should not interfere in the tort liability process.

I cannot support a bill that has such onerous provisions and is so destructive of the labor-management relationship. There are reasonable amendments that will be offered. They could be offered tonight. We could pass this, pass those amendments and conclude action on this bill tonight and get Amtrak on its way if Members are so concerned about seeing Amtrak continue to operate safely and efficiently.

We could do it tonight. We could pass the LaTourette amendment and get on with our business, but apparently it is going to be held over until tomorrow.

In that spirit, Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, this is a very serious business, a very serious issue before the Congress. In fact, as we heard the gentleman from Pennsylvania [Mr. SHUSTER] say, Amtrak is going down the tubes. Amtrak cannot survive a strike which has been put off for another week here.

What is fundamental to this debate is, why is Amtrak off track? As a member of the Subcommittee on Railroads, I had the nerve, the very gall, like other responsible members of the subcommittee, to ask why. Why is Amtrak in this condition? We held hearings on this matter. Why are we subsidizing billions of hard-earned taxpayer dollars in a losing system? Why is Amtrak losing money day, after day, after day? How can we put national and vital regional rail passenger service back in responsible operation?

Anyone, in fact I submit anyone, Democrat or Republican, who take a look at this and we passed this bill by a wide, wide bipartisan measure and folks looked at it. We had a bipartisan commission look at it. I submit even if we had the village idiot look at this they would all come up with the same conclusion, that there are two reforms that are necessary for Amtrak. One is labor reforms, changes in labor law, some that were enacted decades ago. Two, liability reform. Everyone who looks at it comes to the same conclusion.

I submit on the labor front, and this is, let us get to the heart of the issue, just read this, what are the Democrats and labor bosses defending? Up to 6 years of wages and benefits for any Amtrak employee asked to travel more than 30 miles from home to work. This is one provision. Look at this one.

What are the Democrats and labor bosses defending? Up to 6 years of full wages and benefits for all Amtrak employees who are laid off due to a route elimination or because of the frequency of Amtrak train service falls below three trips per week. This is the premium that we have to pay some labor agreements that were made years and decades ago. We do not have firemen on trains anymore because the situation changes. We do not have fires in the engine anymore. But this is what they want to preserve. This is the heart and the core of it.

I submit we can protect employee rights. I think that we can expand employment in Amtrak and give more opportunity. But we need labor reforms, we need liability reforms. We can protect individual rights as far as liability reform, but we must limit some exposure. We cannot be paying out these huge settlements and make this train run on track.

With a little bit of flexibility, I submit, with a little bit of cooperation and, God forbid, a little bit of innovation, we can make Amtrak run. We can increase employment and, in fact, we can provide cost-effective national passenger rail service.

Times change. I said there is no firemen on trains anymore. I am part of the club, too. I worked on the railroad in the summers and they are great people. They are wonderful people. They are hard-working people. But times and position change, I submit, Mr. Chairman, and we must change. Why must we change? Because Amtrak must run like a business. The Congress demands it. The balanced budget requires it. Common sense dictates it. The taxpayers are fed up and they will no longer pay for it running the way it is.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, we have an opportunity today to continue a vital service to millions of people or to help in causing its demise. I think it important that we adopt the LaTourette-Oberstar amendment and the Oberstar substitute, which would provide the capital funds Amtrak needs and would not punish Amtrak's workers and those unfortunate enough to be injured in any possible accident.

The need to fund Amtrak's capital program and provide operating assistance is obvious. The bill before us provides that funding at adequate levels. Unfortunately, the bill also includes provisions that are unacceptable to many of us in this body, to many in the other body and to the President. This House passed an almost identical bill last year and at that time we thought it was the only way that Amtrak could receive the funding it needs to continue. We know now this is not the case. We know that this bill died in the Senate last year precisely because of the objectionable provisions that are

contained in this bill and will most likely meet the same fate again. We also know the President will likely veto this legislation as currently drafted.

What must be removed to make this an acceptable and a good bill? The caps on punitive damages and noneconomic damages must be removed. To put a cap on punitive damages of $25,000 or three times the amount of economic loss, whichever is greater, says that the rich person who is damaged by deliberate negligence, by deliberate tort, we should punish the tort-feasor by three times as much as he is worth. But the infant or the low-income person, his pain and suffering is not worth that. His suffering is only worth the much lower amount.

The straight cap of $250,000 on noneconomic damages on pain and suffering, that is not fair. That is not fair to those who are injured. It is wrong to arbitrarily place a value on an injured persons's loss or his life.

The second issue that has no place in this bill is the circumventing of labor protections. This body, through this bill, has taken upon itself to determine the labor practices for Amtrak and its employees. Even Amtrak does not believe that these provisions are needed.

Thomas Downs, chairman of Amtrak, stated that Amtrak was completely satisfied with the collective bargaining process under the Railway Labor Act. Even the amendment to the C–2 provision in this bill, he said, was not necessary. Amtrak does not experience significant costs in C–2 expenses. This is supposedly the most burdensome labor protection Amtrak employees have. The reason Amtrak needs this capital money and this operating assistance is because the competition from the federally subsidized interstate highway system makes it imperative that any passenger railroad have this kind of subsidy.

Mr. Chairman, I would urge this Congress not to punish Amtrak, its labor, its management, and its passengers. We should support the LaTourette-Traficant amendment. We should vote ''yes'' on the Oberstar substitute and then we should pass a bill that will keep Amtrak viable for all Americans.

Mr. SHUSTER. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama [Mr. BACHUS], a distinguished member of our committee.

□ 1630

Mr. BACHUS. Mr. Speaker, there have been several issues that have come up on the floor that I think need clarification. One thing that has been said on this House floor is why is there a need for labor reform? Why can Amtrak labor and management not just sit down and negotiate through the collective bargaining process?

I would point out to the Members that Amtrak is presently required by Federal law to make labor protection payments of up to 6 years of full wages and benefits to any employee who is laid off due to a route discontinuation or the reduction in service below three times a week.

Now, there have been some statements also on the floor of this House that that is the same labor protection that the freight railroads enjoy. But that fact is not true. Reducing service below three times a week does not kick in the freight railroad protection. The discontinuation of service does not kick it in.

Under the labor protection in this bill, if an employee is asked to move 30 miles or more, these labor protection provisions kick in. That is not true with the freight railroads.

What we basically have by the protection that is in the bill today is we have our railroads competing with bus lines and airlines which do not have these restrictions, and they are losing money, and that is despite the fact that we have subsidized them to the tune of $19 billion between 1970 and today. That is something that we should not ask the American taxpayer to do. And we also should not have the type of restrictions in this bill that we find nowhere else in America, that no other worker enjoys.

We also have the contracting out provisions. Those are a source of capital drain for Amtrak. That is one of the reasons that Amtrak capital and their equipment is in such bad shape today; that it is beginning, I think, to be a responsibility of all of us in Congress either to operate Amtrak safely or not operate it at all. This is becoming more and more a safety issue.

There was a reference on the floor of the House that they are presently contracting out some work. The only work that they can contract out now is work if it would not result in one single employee of Amtrak being terminated. So we have almost zero contracting out now.

The final thing that I would say is it has been said that Amtrak pays out very little cash in labor protection payments. The reason for that is, and that is probably one thing that has been said that is true, that this simply proves that Amtrak management is unable to make normal, rational business decisions because the statutory labor protection standards are standing in the way.

I repeat again this example. Most Amtrak service reductions do not go below three trains a week. The reason they do not is to do so would trigger the labor protections. So Amtrak is tied up. That is why they are running three trains on some routes when they would like to run none.

We ought to at least give Amtrak the right to operate with sufficient capital and to operate the way that other businesses operate in this country. And we also should not come to this floor and say that what Amtrak now has is the same labor protection that the freight railroads have. That is not true.

In fact, and I will close with this, these labor protections not only extend to labor, they extend to the management of Amtrak, which I do not think I have ever seen an instance of that before.

Mr. OBERSTAR. Mr. Chairman, I yield myself 25 seconds.

In the interest of accuracy, the 30-mile issue is not in Amtrak law, it is covered by a collective bargaining agreement. And if we wipe out collective bargaining agreements, then we have wiped out something labor and management together have freely negotiated.

Amtrak did try cutting their frequencies to three times a week. They found that it lost money. So they cut those routes altogether.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida, Ms. BROWN of Florida.

Ms. BROWN of Florida. Mr. Chairman, I rise today in support of preserving wage and labor protection for Amtrak rail workers. Overall, the Amtrak authorization bill is an acceptable bill, but it eliminates wage protection provisions which already exist because of collective bargaining agreements. Mr. Chairman, this is totally unacceptable. Let me repeat, Mr. Chairman. This is totally unacceptable.

Congress should not place in law language that disregards labor agreements. I urge all of my colleagues to support the Traficant amendment which allows collective bargaining to settle the wage protection and contracting issues.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and also for all the work he is doing on this bill.

I am a little concerned about the debate which I am hearing today. I am right in the center of Amtrak. Wilmington, DE, is directly between New York City and Washington. We are the ninth most used rail station. I use it personally. We have a lot of employees there. I speak to Mr. Downs on a regular basis, for whom I have a tremendous amount of respect. I think he is doing a wonderful job. I have toured the different facilities there and spoken to the union people. I have been through the whole thing.

We have a problem on our hands, and I am not sure we are recognizing that on the floor of the House of Representatives today. And that problem is that there is almost a strike today. It would have started at 12:01 this morning, I believe, if they had not put it off for a week. It could start up 6 days from now. That is a tremendous problem.

If we shut down Amtrak, we will have a problem. That did not come up directly because of this but because of a board which the President put together imposing some very high wage increases, which is all well and good, except nobody said how we are going to pay for it. It comes to about $85 million a year, is what it comes to, and we are

not sure at this point how that will be paid for.

We are not sure at this point what we will do with respect to the capital improvements, which everybody agrees are needed. We did pass $2.3 billion as part of the tax bill in the course of this summer, but we cannot get that released unless we get this authorization done. All these things have to come together and they all have to interlock together in some way or another.

And while it is fine that we are debating the labor and liability issues, the bottom line is if we do not pass something pretty soon in the House of Representatives, Amtrak will fail, and then our debate will be about whose fault it was that it failed. We need to come to some resolution of this. We need to make sure the $2.3 billion is released. We need to deal with the strike issues as soon as possible.

And by the way, I have serious doubts they can continue commuter travel at the same time that they are going through a strike. This would just clog the whole east coast area. Amtrak is vitally important not just to the east coast but to other parts of this country, but it literally would have an effect that is overwhelming in certain parts of the country, and the congestion on the east coast would be that.

But I am bothered beyond all this. I am bothered by the fact we are trying to play catch up with Amtrak. And yet we go to other countries and see videos of other countries on television and we learn about the rail systems which they have, which are vastly superior to what we have in the United States of America. That does not exist in any other area of transportation but in that of rail. And I think we need to address that issue as well.

This does have 500 destinations. Amtrak does touch in 45 States. It does provides over 22 million passenger rail trips every year. That is a significant amount of travel in this country, and my judgment is we have to improve it. We have that chance to do it. The chairman has worked hard to get us in that position to do it, and we have to pull together.

If indeed there are labor, liability, or other issues that need to be resolved, such as route flexibility or whatever it may be, we need to sit down and try to work that out. But we do not need to defeat this legislation. That would be a serious error. It passed last year by a vote of 406 to 4. Let me tell my colleagues, it is a lot more urgent this year in 1997 than it was in 1996.

I would encourage all of us to support this legislation, work out what the differences are and make sure rail travel in America goes forward.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Chairman, I believe to save Amtrak we do not have to kill the Amtrak workers. We all want to save Amtrak. I think that we are not going to go forward with any votes tonight because there are many Republicans that realize that it may be perceived as just a jab back at labor, because the two major elements of this bill and the real bottom line issue is preserving the integrity of the collective bargaining process, and that is why labor is up in arms.

I think Republicans are foolish. I think they are getting more labor votes than they think, and I think they have an opportunity to look at this in a different vein. My voting record reveals I have tried to always be fair, and I vote for what I think is best for the country, and I am advising my Republican colleagues to take a look at this before they come to the floor.

One thing the Quinn bill does, and I love the gentleman, I think he is a great Member, but it does something I do not like: It treats some people differently; namely, Amtrak workers. And I want to stand here today on behalf of Amtrak workers.

I have said this many times, but I will say it again, because I want that old Pitt man there, one of the great chairmen in our history, I think he was born to be chairman of this committee, and I follow his lead, but as an old Pitt quarterback, I can remember when Vince Lombardi died. Everybody said they loved him, and the news media could not believe it. And they went up to Willie Davis and said, Willie, big Hall of Fame defensive end, Willie, tell us the truth about Vince Lombardi. Now, look, tell us the truth. He said, I loved him. They asked him why he loved him. He said because he treated us all alike, like dogs at times, but all alike.

Mr. Chairman, I think it is bad policy, poor precedent to place worker against worker. If I were a Republican and the labor unions tried to beat me, I would feel the same way. I think it is time to rise above that.

Here is the point I want to make: The contracting out provisions and the other labor protections in this bill for Amtrak workers has been admitted by Amtrak to not be a part of the cost complications. They are inconsequential. So what appears to me to be labor is, all right, these guys screwed me and I am going to get them. And I guaranty back there in Altoona the gentleman has more labor support than any Democrat that is going to run against him.

I am asking the chairman to treat Amtrak workers like all the other workers, and we do not have to kill Amtrak workers to save Amtrak. Let us save Amtrak and get ourselves a few votes in the process.

With that, I yield back any more of the politics of this matter.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me be very brief on some very key issues. There is no doubt that we join collectively to save Amtrak. I am a strong proponent of that, and I appreciate the work that has been done by both the ranking member and the chairman on this committee.

I want to lay on the table two key issues, and that is protecting employees, providing them with the same work conditions and benefits as we would want to have provided for our other workers throughout this Nation; and then, as a member of the House Committee on the Judiciary, I must emphasize my great concern in the capping of economic and noneconomic damages, in this instance relating to punitive damages as it relates to individuals who are injured.

We have gone through this battle before. I think that we can save a valuable transportation vehicle and tool like Amtrak by being fair with those injured parties. There is no price that we can place on a lost arm or leg. There is no price that says that one who is the CEO of a company, that one who has great wealth should be costed out in damages more so than that retired, elderly, former schoolteacher, or that young student who tragically was injured.

We can fix this legislation, and I think we should. Let us be fair and provide for transportation for all those who need it and, at the same time, give value and benefits to the workers and protect those individuals, those innocent individuals who may be using this vehicle, this means of transportation, so that they too will recognize the value of what we do in this Congress and we do it in a fair and honest way.

Mr. Chairman, I rise today to raise some serious concerns about H.R. 2247, the Amtrak reauthorization bill, as it stands today. Unless amended, this legislation would be a failure by this Congress to protect the interests of the American people in general, as well as, the constituents that we have all been elected to represent. I do not mean to suggest that H.R. 2247 is a piece of legislation without merit. Actually, this legislation begins the important first steps necessary to make Amtrak a fully self-funded national transportation entity, by decreasing costs and making it possible to increase revenues. However, it is still very important that we be careful of what means we use to achieve greater gains in fiscal solvency. Frankly speaking, the changes that this bill makes to the state of standing Amtrak labor relations and the liability of the rail line for either economic or non-economic injury is greatly in need further review and revision by this Congress. We must and can not pass legislation from this body that chooses economic gains and protections for corporations above the rights of the individual to recover in case of injury.

As far as claims for property damage or personal injury, my primary objections to H.R. 2247, as it stands, are as follows. First of all, H.R. 2247 caps damages for noneconomic injuries at a sum of $250,000 above the victim's economic damages. Second, the bill then limits an injured passenger or victim's recovery for punitive damages to $250,000 or three

times the amount of economic loss, whichever is greater in that case. And third, the bill sanctions private indemnification agreements that would completely immunize railroads from liability in the event of an accident, forcing Amtrak to pay for the gross negligence of these parties.

First of all, the final legislative initiative in this group, about indemnification, may very well increase Amtrak's costs because of the recent frequency of rail crashes in America, which occur approximately once an hour according to U.S. News and World Report. On the other side of every indemnified Amtrak crash, there are most likely going to be injured passengers or victims who deserve to recover damages, why place that burden solely on Amtrak? Is it prudent or responsible at a time when railroad accidents are occurring at an alarming rate to pass legislation that assigns additional financial responsibilities on Amtrak to compensate injured parties for accidents? I would contend that it is not. What incentive does an indemnified entity have to make sure that accidents do not occur, and if these incentives do exist, why take such a great risk with the lives of the American people? These railroads can act negligently or recklessly, cause an accident, and simply leave Amtrak to carry the bill.

Furthermore, how can we dare to put a cap, a calculated, definitive value on the amount of recovery for noneconomic and punitive losses? Is the loss of an arm, a leg, a wife, a husband, a mother, a father, a daughter, or son because of a disastrous crash all equal in value? I do not see how they could be. Also, why does this legislation place a cap upon punitive and noneconomic damages and not economic damages? Are those who have lesser economic harms somehow justifiably entitled to less no matter what that particular injury may be? In sum, none of these new initiatives appear to be pragmatic in function or necessary for the future of Amtrak; they ultimately raise a lot of questions, but give very few answers.

Finally, the blatant disregard of this appropriations bill for the standing labor relations within the Amtrak operative structure, is grounds enough for opposing H.R. 2247. The bill, as it stands, removes protections from workers, tells Amtrak and its employees to negotiate, but gives no incentive for Amtrak to negotiate. H.R. 2247 just strikes standing Amtrak employee protections from the law without giving Amtrak bargaining constraints, and thus forces the employees to strike to enforce their demands to management because their statutory protections are gone. Much like many of the other changes within this bill, it just does not make any sense. I urge my colleagues to support the LaTourette amendment which was drafted specifically to address these concerns.

In light of all of these many concerns and controversies, I would ask all of my colleagues to be reasonable, and please reconsider H.R. 2247. Not simply for the good of Amtrak, but as well for the good of America.

□ 1645

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I want to thank the gentleman and I want to thank the chairman of our full committee and members of the Republican Party. It is the first time in 15 years I have ever had my words blown up and prominently displayed. I have joined the ranks of GINGRICH, ARMEY, GEPHARDT, and many others. I just hope they will also blow up some of my predictions that I made about the Contract With America because I think those proved to be equally succinct and of course prescient.

Now, 406 to 4, and so the claim is made, well, many of our colleagues voted for that and, yes, I voted for the bill the last time, too. But, Mr. Chairman, I have got a practice that if I run one time into a brick wall, I try not to suit up and run into it again. And so many of us when we signed up last time and voted were told this is the way it had to be because this is the best way to get this bill passed and Amtrak is in trouble and this is the way to get it passed, emphasis on ''passed.''

406 to 4, 2 years ago and we are back here again. Why? Because it did not pass the Senate and it was not signed by the President. The Senate would not even take it up and so we can vote for this bill again and we can run into a legislative brick wall for every bit the same reasons. What we are doing in our amendments and in our language is we are trying to remove the impediments to getting this bill passed, the labor protection clauses and the liability clauses. That is what held this bill up. We can get this bill passed, I presume, in the next week or so by removing the controversial items.

So, yes, my hope is that 406 to 4, there are a lot of people that learned something out of that. And what we have learned is that if it did not work this way last time, it will not work this time and so let us make the changes that are necessary to keep Amtrak functioning. There are significant differences between then and now. Amtrak is in a different situation but, most importantly, we know what did and did not work and now that we know what did not work, let us not make that mistake again. I would urge my colleagues to support the amendments that will make this bill work and get it passed.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. CARSON].

Ms. CARSON. Mr. Chairman, during this general debate there are certain points that need to be made crystal clear. Amtrak's most important assets are the many men and women who work hard to make sure that our Nation's rail passenger trains operate safely. The bill before us today simply is not fair to these employees. It creates a gaping hole in the law which will deprive Amtrak workers of wage protections which have been in place since the 1930's for displaced and downgraded employees.

It also removes restrictions on contracting out work. This would allow Amtrak management to throw away its employees by making their jobs disappear. This provision in the bill would directly affect 706 workers in the 10th Congressional District of Indiana. Amtrak operates a maintenance shop in Beech Grove, IN, to keep its engines and passenger coaches in good running order. This bill would allow Amtrak to shut down that facility and shift maintenance to privately contracted shops outside of Indiana. The 706 workers at the Beech Grove maintenance shop deserve better than this. They are doing a good job and receive health care and other benefits. I do not believe that we should be eliminating those jobs and sending the work out of Indiana, especially the contract facilities that do not give their workers the same pay and benefits.

That is why I support the LaTourette-Traficant amendment. It would restore the labor protections that exist in current law and would preserve the jobs in Beech Grove. I compliment my two colleagues for offering this amendment.

The Quinn amendment, on the other hand, would only make minor improvements to the bill. By voting for the Quinn amendment, we would be voting against the LaTourette-Traficant amendment. Do not be fooled. The Quinn amendment does nothing to help Amtrak workers. It is a killer amendment designed to defeat the important labor protections that the LaTourette-Traficant amendment seeks to restore. When these amendments are offered, I strongly urge my colleagues to reject Quinn and adopt LaTourette-Traficant.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, the Federal Government is a master at creating Federal programs based upon good intentions, but for which the tax till has become a lifeline for survival. Congress created Amtrak back in 1970 with a one-time grant of $40 million, one-time grant, it was supposed to be. It was to be independent and was to be self-sufficient. As we all know, Amtrak has not become self-sufficient. It has turned into a $22 billion black hole for taxpayer dollars.

What have we gotten for our money? Passenger trains in 1997 are slower than they were in the 1950's. Their average speed is slower than many Third World countries. Even tomorrow's version of high speed rail will be slower than France or Japan's trains in the 1970's. Amtrak has used the taxpayers' $22 billion and taken a giant step backward. How do we reward Amtrak for this? In Congress' infinite wisdom we have decided to give Amtrak, which has never paid any taxes, a $2.3 billion tax refund. But to kill the $2.3 billion now, we would have to kill this legislation.

While I do not think this bill goes far enough and I know Amtrak will be right back at the Federal trough as soon as it gobbles up the next $2.3 billion, it does contain a number of items which make sense. With the passage of

this bill, Amtrak will finally be able to adjust their system of routes without fear that Congress will tie their hands. At the same time we have given preapproval for States to form interstate compacts in order to take over any routes Amtrak discontinues. We are encouraging contracting out, replacing the current Amtrak board, taking the Government out of Amtrak through the redemption of Amtrak's common stock and reforming the labor structure.

Mr. Chairman, some of my colleagues beholden to the labor unions will argue that this bill goes way too far, and I say it does not go nearly far enough. This bill does not go far enough and Amtrak is bound to turn to Congress for more help in future years. But as long as the labor unions are spending millions of dollars trying to buy Congress, as long as we continue to delude ourselves that Amtrak will ever be able to run a railroad and as long as we continue to waste our taxpayers' dollars by pouring it down this empty pit, this is the best bill we can probably pass in this House. I urge my colleagues not to water it down any more.

Mr. OBERSTAR. Mr. Chairman, although we have more time, we have no further speakers on our side. In sorrow, disappointment, and puzzlement that we will not get to a vote tonight, I yield back the balance of my time.

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

The CHAIRMAN. All time for general debate has expired.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CALLAHAN) having assumed the chair, Mr. KOLBE, 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. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 830, FOOD AND DRUG ADMINISTRATION REGULATORY MODERNIZATION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia? The Chair hears none, and without objection, appoints the following conferees:

Messrs. BLILEY,
BILIRAKIS,
BARTON of Texas,
GREENWOOD,
BURR of North Carolina,
WHITFIELD,
DINGELL,
BROWN of Ohio,
WAXMAN, and
KLINK.

There was no objection.

TRIBUTE TO PHINEAS INDRITZ

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

Mr. DINGELL. Mr. Speaker, it is with a great sense of sadness that I advise this House of the passing of a dear friend of this institution and of mine, Mr. Phineas Indritz, an individual known for many years as an outstanding staff member of many committees of this Congress and well known to many on Capitol Hill and the city of Washington.

Phineas Indritz died on October 15, 1997, at the age of 81 at Holy Cross Hospital following a long illness. Phineas was a graduate of the University of Chicago with A.B. and J.D. cum laude degrees, served as Assistant Solicitor and Counsel at the U.S. Department of the Interior from 1938 to 1957, except during the years of World War II, when he served with distinction in the Army Air Forces.

He then began 20 years of service on Capitol Hill as a staff member to the Government Operations Committee, first as counsel for the Subcommittee on Public Works and Resources in 1957 and then going on to other assignments.

In 1963, he became chief counsel of the Subcommittee on Natural Resources and Power, and at the same time, in 1969, to the Subcommittee on Conservation and Natural Resources. He also served with distinction as a member of the staff of the Committee on Energy and Commerce and also for its Subcommittee on Energy and Power.

He has long been known for the outstanding work he has done for human rights, protection of natural resources, and for his work as teacher and scholar and educator in the area of law.

Mr. Speaker, he will be missed, and I extend my sorrow and sympathy to the members of his family who properly grieve the loss of a great man.

Some may remember the series of articles written by David Maraniss for the Washington Post about the Committee on Energy and Commerce in 1983. In one of these articles, dated July 18, 1983, was a portrait of Phineas Indritz. I would ask that a passage from this article be reprinted as follows:

There is a special desk and telephone reserved for Phineas Indritz, the gnome of the Energy and Commerce Committee, on the third floor of House Annex II, and he is received there with the respect befitting a wise old man who has worked in Congress since the birth of the youngest committee member.

That Indritz retired from government service several years ago and is not on the committee's payroll matters not at all when it comes to his standing and influence. Chairman John D. Dingell loves him like a brother, and it is fair to say that Dingell keeps him around because he needs him: Little Phineas is in many respects the social conscience of Big John.

Every few months, Indritz appears in Dingell's office with a wrong that must be righted, with evidence of an injustice inflicted by corporate America or some agency of the federal bureaucracy. ''He's like a kid who comes home every day with a different stray dog or cat and plops it on our doorstep,'' one committee colleague said. ''Sometimes we wish he wouldn't bring them home, but his heart is always in the right place. And usually the things he believes in are things that ought to be done.''

All of this must be taken into account when one considers the life and times of H.R. 100. This measure, popularly known as the unisex insurance bill, has sent the insurance industry into a multimillion-dollar lobbying frenzy. It has been embraced by feminist groups as the centerpiece of their campaign for economic equity. And it has trapped Energy and Commerce members in the middle of a ferocious fight that many of them wish would be waged somewhere else.

Indritz, committee aide emeritus, dropped H.R. 100 on the doorstep. He is one of the bill's principal authors. An old civil rights activist and New Deal liberal, Indritz is blessed with talents as extraordinary as his name. For years, his amazing juggling feats with bowling pins have delighted friends and strangers in parks around Capitol Hill.

He drives through town in a fine old convertible, his head barely protruding above the steering wheel. His tweed suit pockets hold a bountiful supply of hard candy, and his scholarly mind retains more obscure facts about constitutional law and legal briefs on discrimination than can be found in the library of the Supreme Court.

It was his lifelong obsession with fighting discrimination that led Indritz several years ago to take hold of a bill prohibiting insurance companies from using race or sex in setting rates for policyholders.

Phineas will be greatly missed. We are fortunate that his legacy is so long, and continues to live with us and help us every day. He is survived by his two daughters, Tahma Metz of Bethesda and Tova Indritz of Albuquerque, NM; and a son, Dr. Doren Indritz of Phoenix, AZ; a sister; and two grandsons. He was preceded in death by his beloved wife of 34 years, Ruth Gould Indritz.

HONORING BOB L. VICE

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

Mr. PACKARD. Mr. Speaker, I rise to honor a distinguished agricultural leader at the local, State, and national level who will be leaving office this year. Bob L. Vice, President of the California Farm Bureau Federation, has led the largest agricultural organization in the State of California for the past 8½ years. He has met many challenges during the time to keep a $24 billion a year agricultural industry, the largest in the Golden State on course. California agriculture is an industry that contributes generously to the State's economy.

While many think of California as large cities and recreational parks, one in 10 jobs are directly related to agriculture. Farmers face the whims of mother nature and uncertainties of the marketplace and ever increasing government regulations. Bob Vice has been a strong advocate of the industry and has spent much of his time away from his family to devote his efforts to the industry that he loves. I am proud to know him as a distinguished agricultural leader, a devoted constituent and a friend. I wish him the best in his future endeavors.

Bob Vice began his service to the agricultural industry when approached to attend a meeting of the California Farm Bureau Federation's Young Farmers and Ranchers Committee. This offer to attend this meeting was made so far in advance that he gave little thought to the time commitment involved. But it was to the agricultural industry's benefit that he chose to do so.

After attending the meeting, Bob Vice became very active in the San Diego County Farm Bureau's young Farm and Ranchers Program and worked on many programs at the county level. His involvement led him to a position on the County Farm Bureau board of directors.

His enthusiasm for work on behalf of the agricultural industry and Farm Bureau was acknowledged by his progression to president of the San Diego County Farm Bureau and thus a delegate to the California Farm Bureau Federation. In 1987, he was honored as the San Diego County Farmer of the Year.

In December 1981, Bob Vice was elected as the first vice president of the California Farm Bureau Federation at their annual meeting in Palm Springs. As an officer and board member of the State organization, he participated in many committee assignments and directed the policy review procedures at the annual meetings.

In 1985–86, he participated as the agricultural point person to deal with the Immigration Reform and Control Act provisions in the national legislation. He continues to be a national spokesperson for agricultural labor issues and has been called upon to testify before Congress numerous times.

In 1989, after serving 7½ years as first vice president, Vice assumed the role of president of the California Farm Bureau Federation and was re-elected four times to that two year position. He served on the American Farm Bureau Federal [AFBF] board of directors from 1989–92. He was reelected to the AFBF board in 1994 and continues to serve in that capacity. He was also named to the six member executive committee of that organization. He has served on many committees including chairman of the AFBF International Trade Advisory Committee. He has participated in agricultural trade delegations to Europe, Israel, Latin America, the Pacific Rim, South Africa and Australia.

Bob Vice has not only been active within Farm Bureau but as a leader for all of agriculture. Shortly after assuming the presidency, he became the chairman of an agricultural coalition to successfully fight the ill-conceived ''Big Green'' initiative. His efforts further elevated him as a leader on the national agriculture scene.

Bob Vice has been a visionary on behalf of the agriculture industry by his long range outlook on issues affecting the industry. He is especially aware of the need to balance the use of water between competing interests within California and was one of the original participants on the California Bay Delta Oversight Committee established by Governor Pete Wilson. He was a major participant in the effort to pass Proposition 204, the water bond issue in 1996.

His willingness to participate in issues affecting agriculture has propelled the California Farm Bureau to new heights in political awareness and has made the organization a well respected force in Sacramento and Washington, DC. This respect is not only acknowledged by elected officials but also by his peers throughout the industry.

He was appointed to the 22d Agricultural District Fair Board (Del Mar) in 1984 by Governor George Deukmejian and has been reappointed twice by Gov. Pete Wilson. He is a member of the Advisory Council on Small Business and Agriculture of the Federal Reserve Bank of San Francisco.

In addition to his many agricultural activities, Bob Vice and his wife Carilyn are very active in their church and community. He continues to farm avocados in Fallbrook, San Diego County.

MORE ON THE IRS AND THE TAX CODE

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

Mr. SMITH of Michigan. Mr. Speaker, I wanted to talk about the IRS, our Tax Code, where we go from here, and some of the abuses. In my Somerset congressional church in Somerset, MI, a member gave me his dun notice from the IRS and I would like to share it with my colleagues and, Mr. Speaker, with the American people.

It says, ''According to our records, you owe $49 on your income tax. Please pay the full amount, et cetera, by this date. If you have not paid, mail your check or money order. Tax withheld, zero; estimated tax payments, $6,347; total payments or credits, $7,379.83; total tax on return, $7,380.'' That is all complicated.

Here is the line that makes the difference. ''Your underpaid tax, 17 cents. You owe a penalty of $49.35.''

The postage stamp to send out this dun notice is more than the 17 cents that IRS said he owed on his taxes. I think it is another example of why we have to reform the IRS and get rid of it as we know it.

Mr. Speaker, I include for the RECORD the following:

REQUEST FOR TAX PAYMENT

According to our records, you owe $49.35 on your income tax. Please pay the full amount by Sep. 15, 1997. If you've already paid your tax in full or arranged for an installment agreement, please disregard this notice.

If you haven't paid, mail your check or money order and tear-off stub from the last page of this notice. Make your check payable to Internal Revenue Service and write your Social Security number on it. If you can't pay in full, please call us to discuss payment.

Tax Statement

Payments and credits:	
Tax withheld	$.00
Estimated tax payments	6,347.83
Other credits	.00
Other payments	1,032.00
Total payments and credits	7,379.83
Tax:	
Total tax on return	7,380.00
Less:	
Total payments and credits	7,379.83
Underpaid tax	.17
Penalty	20.64
Interest	28.54
Amount you owe	49.35

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

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

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

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

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

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

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

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

□ 1700

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. CALLAHAN). Under a previous order of the

House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, it is my pleasure to come today to talk about a very important subject, and that is campaign finance reform. I think a legitimate question at this point can be, where are we and where are we going in the House and Senate on campaign finance reform?

We have seen the Senate try to address this issue. They brought up the McCain-Feingold bill. They came to a stalemate in the Senate, neither side winning, but simply could not get the 60 votes necessary to move that issue forward.

I believe that the issue now turns back to the House to see what are we going to do, what are we going to do for the American public. I believe we have a tremendous opportunity now to address the issue seriously, through our policy conference, through our committees, and to make some constructive suggestions and legislative enactments in regard to this important issue.

We also have the opportunity to create some momentum, which this issue seriously needs. So I believe that we have that opportunity, and I would urge my colleagues in the House to get behind the effort to reform our campaign finance laws.

One thing I hear all the time is we first have to enforce the laws. I agree 100 percent, the first obligation that we have is to enforce our current campaign laws, and I am grateful for the hearings that Senator THOMPSON is conducting on the Senate side and Congressman BURTON is handling on this side, that are bringing out some serious abuses, some violations of the law, and we have to continue digging in that area.

But the American public fully understands what the real problem is. It does not take a rocket scientist to figure out that the problem is soft money. That is what has led to the abuses of the last campaign, and that is what needs to be addressed during this legislative cycle in regard to the reform that we need to do.

So we have presented the Bipartisan Campaign Integrity Act of 1997 that I have introduced as H.R. 2183, that Congressman TOM ALLEN from Maine, my Democrat counterpart, has cosponsored along with me, along with 650 cosponsors to this legislation, both Republicans and Democrats, both conservatives and liberals.

Why can we all agree upon this? Because we narrowed it down to what is important. What we have to present now is what are the important elements of reform in this bill. It includes, first of all, a ban on soft money to the national political parties.

What is soft money? It is the millions of dollars generally in contribution that come from the corporations and the labor unions to our national political parties.

I believe the debate boils down to this: Are we going to have our national political parties controlled by the multinational corporations that give the huge chunks of money, or are we going to be responsive to the grassroots of the American population? That is how simple this issue is, and that is how the American public sees it.

I believe conservatives need to unite behind this bill, the Bipartisan Campaign Integrity Act, because it builds confidence in the grassroots. It tells them that we are going to be serious about being responsive to them and reforming our system and banning soft money, returning control of our parties, of our Congress, to those people that have built this Nation. That is what it is all about.

In addition, it increases disclosure. We need to simply give the American people information on the campaigns, who is spending what. So it provides for electronic disclosure for the candidates, quicker information for them.

In regards to issue advocacy groups, it is simply disclosure. It does not get into the constitutional questions of some other billings, but simply provides the disclosure of information as to who is spending what on the campaigns to influence those. So that is the essence of the Bipartisan Campaign Integrity Act, and I believe it is very, very important.

Where did all of this start? It started with the Republican President, President Teddy Roosevelt, who in 1905 addressed the Congress of the United States and said that all contributions by corporations to any political committee or for any political purpose should be forbidden by law.

It started with a Republican President, who started campaign finance reform. Later, the prohibition on union contributions, labor union contributions to the political candidates, was enacted.

So that is the basis upon our legislation today that bans unions and corporations from giving directly to the political candidates. But yet we have this loophole where they can give in multimillion-dollar chunks to the political parties that influences those elections they cannot give directly to. That is why it is a loophole of soft money that we should address.

Now there is a proposal that is out there that says we just need to deregulate it all, we need to let anybody contribute whatever they want to, and that is the best approach to campaign finance reform.

First of all, I believe that this would take us back to the dark ages. People remember the day when a candidate could receive anything he wanted and lean however much he wants to get money. And, sure, the American public will need it, but it is bad for the system. It would be inappropriate to raise the limits.

The proposal says we even take the limits off of political action committees. Can you imagine the labor union political action committees that could give anything they want, that they could give $1 million to a candidate? I think that is bad for the system. So the proposals that say we need to take the limits off is not where the American public is today.

We need true reform. We need to have the bipartisan proposal that bans soft money, the greatest abuse, that increases disclosures, empowers individuals and restricts the influence of the special interest groups. That is what our bill does.

I am grateful for the gentleman from California, Chairman THOMAS, who has indicated that he will provide hearings on this legislation, as well as others. I hope that he will schedule those immediately, so that we can move forward with this important legislation before we go home in November.

That is where we are. I ask my colleagues to support the Bipartisan Campaign Integrity Act.

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

[Mrs. SMITH of Washington, addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

[Ms. BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

FAST TRACK TREATY AUTHORIZATION

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

Mr. KOLBE. Mr. Speaker, I rise today to take this five minutes to begin what I hope will be a constructive and important debate on the subject of fast track, a debate which I think will certainly rank with among the most important debates that this Congress will undertake this year or next year, whenever we finally do actually take this debate and cast a vote on fast track.

I recognize in beginning this discussion tonight, and this will only be the beginning of a long discussion I think we need to have, that there are many Members in this body who have come to the Congress of the United States since the Congress last voted on any kind of substantive trade issue, an issue where the fast track was the essence of the debate. It also ranks as one of the most unusual, some would say arcane, but certainly one of the most complex pieces of legislation that

we have in our panoply of legislative tools.

It ranks as that because it very uniquely delegates to the President certain responsibilities that normally Congress would not delegate to the President. It gives up certain powers of its own in order to get trade legislation enacted.

During the course of the next several days and weeks, I hope that we can discuss the importance of trade, how the fast track process works, why fast track is an essential element to getting trade negotiations and trade agreements in place, why fast track does not represent something that will damage workers and consumers in this country, why, indeed, these trade agreements are essential, why it should be considered constitutional, why we should or should not consider it and what elements of labor and environmental considerations should be included in any kind of fast track negotiations, and, ultimately, how fast track and trade agreements can protect the U.S. health and safety standards.

But today let me just begin with a little bit of background of where we have come from to get to this position today, where we now have a bill that has been reported from the Committee on Ways and Means, another bill in the other body that has been reported from the Senate Finance Committee, how we have gotten to this stage and why we are here today.

Fast track is legislation that goes back more than 20 years, about 25 years, to a time when we began to see that the complexity of trade negotiations required something that gave the President the authority to negotiate these kinds of agreements with other countries, and usually multiple numbers of countries, as we have found in the Uruguay round of GATT talks or the other multiple trade talks that preceded that.

We decided we needed this kind of fast track authority because the complexity of the negotiation itself meant that at the end of the negotiation, we had to be able to submit something to the Congress of the United States that would be voted yes or no.

The reason for that is simply our trading partners do not want to negotiate with the United States if they do not know at the end of that time there is going to be a yes or no vote. They want to know with certainty that the agreement they reach is the agreement that will be voted on. That is why we gave fast track authority to the President of the United States, and it has worked for every President since 1974, Republican and Democrat.

This is the first time that we have been, for several years now, without trade negotiating authority for a President. The results tell. During the course of the next several times that I will speak on this floor on this subject, I will outline some of the problems that we now have, because we have not had fast track authority for the President.

But let me just say in closing, Mr. Speaker, that this is absolutely vital legislation. It is vital because I think literally the economic future of this country depends on having fast track. We must have fast track because we must have trade, and trade is the engine of economic opportunity for the future, for American workers, for American consumers, for American entrepreneurs, for the security of the United States. It depends on having fast track authority.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. SANCHEZ] is recognized for 5 minutes.

[Ms. SANCHEZ addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

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

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

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I would like to say thank you to colleagues of mine who have joined this evening to speak out on the fight against breast cancer.

October is Breast Cancer Awareness Month. This is a time when we honor all of the women who are fighting this deadly disease, we remember those who we love who have lost the fight, and we renew our commitment to trying to find a cure.

It is time to take stock of where we are in the fight against cancer. Are we committing sufficient resources for biomedical research to find a cure? Do women who have been diagnosed have access to the care that they need in order that they can heal properly?

I am very, very pleased that the appropriations committee that I sit on is poised to increase funding for the National Institutes of Health by at least $700 million so researchers can continue their quest for the causes of this disease and find an effective treatment that will, at longlast, give us the cure that we have been looking for.

Also the Department of Defense, along with NASA, is putting state-of-the-art technology to use in improved mammograms to increase the rate of earlier detection, which is clearly a key.

Unfortunately, all too often the answer to the second question, do women have access to the care that they need, is a resounding no. More and more often managed-care organizations are forcing patients home just hours after a mastectomy. In fact, a study by the Connecticut Office of Health Care Access proved that the average length of stay for breast cancer patients in Connecticut is dramatically decreasing. Most disturbing, it is decreasing faster for mastectomies than for other inpatient discharges.

This is really unacceptable. These are real women, women who are undergoing traumatic surgery, who are then sent home while they are still in pain, groggy from the anesthesia and with drainage tubes stitched to their skin.

It is not every day that you come face-to-face with your own mortality in a very profound way, as you do when you face a cancer diagnosis. It is not too much to ask for a mere two days in the hospital as you recover from this kind of surgery.

Congress needs to act to stop this practice. That is why, along with Congresswoman MARGE ROUKEMA of New Jersey and Congressman JOHN DINGELL of Michigan, I introduced the Breast Cancer Patient Protection Act. The bill would require insurance companies to cover 48-hour hospital stays for women who undergo a mastectomy and a 24-hour stay for those undergoing a lymph node dissection. The patient and her doctor, not an insurance company, can decide if a shorter stay is appropriate.

My home State of Connecticut and a number of other States have passed legislation to give women a 48-hour hospital stay. However, 125 million Americans are covered by the Employee Retirement Income Security Act, ERISA. These plans are exempt from State law, so we need to work together here in the Congress to pass Federal legislation to ensure that every woman is protected.

This measure has wide bipartisan support, 195 cosponsors, Democrats and Republicans. Congress has yet to act on this important bill. Nor has it moved on another piece of legislation that is so important to breast cancer patients, and that is the Reconstructive Breast Surgery Benefits Act, which was introduced by my friend and colleague, the gentlewoman from California, ANNA ESHOO. Congresswoman ESHOO could not be with us here tonight, and I will include her remarks for the record.

Americans understand the need for this legislation. In fact, through the breast cancer care petition, which is an on-line petition drive which we have initiated, thousands of Americans are speaking out and calling for hearings on these bills.

□ 1715

Not only can they sign a letter, but they can leave their own stories of their own experiences about breast

cancer. Over 6,000 people have signed this petition. Hundreds of women and men, survivors and their families, have left very moving stories that are more eloquent than anything that I could say.

Just a quick example that has been posted on the petition, from a Nebraska resident. I quote:

As the director of a breast cancer screening program, I have felt close to the medically underserved women who are our clients as they daily struggle with the painful choice of taking care of their own good health and buying cereal for their kids. There are real tears being shed by real women every day. They are your neighbors, your colleagues, your kids' teachers, the clerk at the grocery store. Breast cancer survivors have enough to deal with. Do the right thing, pass this legislation, and help make the tears fewer for those who will follow us until a cure is found.

One New York resident simply wrote, ''During the most devastating time in my life I should not have to fight with the insurance company.''

We all pray for the day when we find a cure for cancer. Until then, we must ensure that those suffering from this disease get the care they need and the care they deserve. I call on the Congress to pass the Breast Cancer Patient Protection Act.

Mr. Speaker, I include for the RECORD the statement by the gentlewoman from California, Ms. ANNA ESHOO, on this legislation.

The statement referred to is as follows:

BREAST CANCER LEGISLATION

Ms. ESHOO. Mr. Speaker, first, I thank my colleague Rep. ROSA DELAURO for organizing this special order during National Breast Cancer Awareness Month and for her unwavering advocacy on behalf of breast cancer patients.

Breast cancer touches the lives of thousands of American women, their families, and their friends every year, forcing them to confront both death and disfigurement. Over 180,000 American women are diagnosed with breast cancer annually and 44,000 of them die from the disease. Another 85,000 American women have mastectomies as part of their treatment each year, 25,000 of whom choose to have reconstructive breast surgery because of the tremendous damage that mastectomy does to a woman's body.

Fear of losing a breast is one of the main reasons many women do not have preventive examinations for breast cancer—many don't know about the possibility of reconstructive surgery.

Unfortunately, many insurance companies don't recognize the importance of breast reconstruction. A recent survey shows that 84 percent of plastic surgeons had up to 10 patients denied coverage for reconstruction of an amputated breast.

The unwillingness of some insurance companies to pay for reconstructive breast surgery following a mastectomy defies all sense of reason and compassion. Reconstructive surgery in these cases is not cosmetic—it's part of the continuum of case necessary for the complete recovery of patients.

On the first day of the 105th Congress, I introduced H.R. 164, the Reconstructive Breast Surgery Benefits Act. This legislation says that insurance companies that cover mastectomies must also cover reconstructive breast surgery resulting from mastectomies, including surgery to establish symmetry between breasts. Companies can't deny coverage for reconstructive surgery by claiming it's cosmetic surgery.

At the same time, H.R. 164 doesn't force women to have the surgery and it allows companies to impose reasonable charges for providing the benefit.

Even though this initiative has won broad bipartisan support, no hearings have been held on it. Nor have hearings been held on a related piece of bipartisan legislation, H.R. 135, which would stop the shameful practice of drive-through mastectomies.

That's why I welcome the online breast cancer care petition drive which was launched last month to call for hearings on both breast cancer bills.

Located on the Web at breastcare.shn.com, the petition gives breast cancer patients and those who care about them a chance to log on, learn, and leave their names in support of congressional action. The petition will run through the end of this month.

Nearly 6,000 people from across the country have signed the petition so far.

In addition to collecting signatures, the site allows people to leave personal stories about their experiences with breast cancer. Hundreds of people have done so, and anyone reading them can't help but be moved.

At the end of the drive, the petition will be delivered in hard copy to the appropriate committee and subcommittee chairmen to demonstrate that these bills have broad support and deserve hearings.

In closing, I want to read to you just two of the comments that have been left at the petition site. The people who have left them speak far more eloquently about this issue than I ever could.

One woman wrote:

On January 17, 1997, I learned that my mother, the woman I thought was a breast cancer survivor and success story, had developed recurrent breast cancer. On February 4, 1997, my mother was dead. My family has been devastated by the loss. I have accomplished some of the dreams she and I shared together, but cannot tell her. I was finally able to return to live near her, but she's no longer there . . . I thank you for providing me with this opportunity to let those in government know how important it is to provide women with adequate and acceptable care for this devastating disease.

On October 5, a woman left this message:

I was diagnosed with breast cancer 48 hours ago. I must have more surgery in 24 hours. I am terrified. I don't want to die. My grandmother, my mother, and my mother's sister all had breast cancer. I am 53. I have a beautiful 26-year-old daughter. I want her never to suffer with this.

Providing coverage for reconstructive breast surgery and stopping drive-through mastectomies are two important issues related to breast cancer. Until there's a cure for the disease, we must ensure that women are given the best care possible to cope with breast cancer and its treatment.

Mr. Speaker, I encourage people to visit the petition site, breastcare.shn.com, and read these personal stories. They all have one simple underlying theme: it's time for Congress to stop delaying and start acting on these important pieces of legislation.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I rise tonight to speak about an issue of vital importance to the women of this Nation—breast cancer. As a woman and a mother, I feel that there are few issues as important to women's health as the breast cancer epidemic facing our Nation. Therefore, I add my voice to supporting the DeLauro legislation on breast cancer.

As you may know, breast cancer is the most commonly diagnosed cancer in American women today. An estimated 2.6 million women in the United States are living with breast cancer. Currently, there are 1.8 million women in this country who have been diagnosed with breast cancer and 1 million more who do not yet know that they have the disease. It was estimated that in 1996, 184,300 new cases of breast cancer would be diagnosed and 44,300 women would die from the disease. Breast cancer costs this country more than $6 billion each year in medical expenses and lost productivity.

These statistics are powerful indeed, but they cannot possibly capture the heartbreak of this disease which impacts not only the women who are diagnosed, but their husbands, children, and families.

Sadly, the death rate from breast cancer has not been reduced in more than 50 years. One out of four women with breast cancer dies within the first 5 years; 40 percent die within 10 years of diagnosis. Furthermore, the incidence of breast cancer among American women is rising each year. One out of eight women in the United States will develop breast cancer in her lifetime—a risk that was 1 in 14 in 1960. For women ages 30 to 34, the incidence rate tripled between 1973 and 1987; the rate quadrupled for women ages 35 to 39 during the same period.

I am particularly concerned about studies which have found that African-American women are twice as likely as white women to have their breast cancer diagnosed at a later stage, after it has already spread to the lymph nodes. One study by the Agency for Health Care Policy and Research found that African-American women were significantly more likely than white women to have never had a mammogram or to have had no mammogram in the 3-year period before development of symptoms or diagnosis. Mammography was protective against later stage diagnosis in white women, but not in black women.

We have made progress in the past few years by bringing this issue to the Nation's attention. Events such as this October's Breast Cancer Awareness Month, are crucial to sustaining this attention. There is, however, more to be done.

It is clear that more research and testing needs to be done in this area. We also need to increase education and outreach efforts to reach those women who are not getting mammograms and physical exams.

We cannot allow these negative trends in women's health to continue. We owe it to our daughters, sisters, mothers, and grandmothers to do more. Money for research must be increased and must focus on the detection, treatment, and prevention of this devastating disease.

Mrs. ROUKEMA. Mr. Speaker, I take this opportunity during Breast Cancer Awareness Month to ask my colleagues' support for H.R. 135, the Breast Cancer Patient Protection Act of 1997. This legislation would require health

insurance companies to pay for at least a 48-hour hospital stay for women who undergo a mastectomy.

I find it unbelievable that some HMO's are sending women home the same day after having a mastectomy. This is not just a matter of postsurgical complications, possible infection, and other medical issues. This is one of the most anguish-filled, emotionally trying crises a woman can ever face. To perform a mastectomy and then turn the patient out the door shows callous indifference to the dignity of all women.

Sometimes it seems that HMO's are making a concentrated attack on the health concerns of women. First they were trying to discharge new mothers 12 hours after giving birth. Now we have outpatient—drive-through—mastectomies. What will come next? I will not settle for third-world standards for health care for women in this country and neither will the 184,000 women who contract breast cancer each year. This is not legitimate cost-saving. This is cold, callous rationing of care.

Some HMO's say outpatient mastectomies are not mandatory—that the doctor and patient can decide how long to stay in the hospital. I would like to believe that it is true. But we have already seen physicians being coerced into providing lower levels of care when HMO's think they are spending too much money. HMO's are often in a position to put a doctor out of business overnight by taking his or her patients away. I do not accept the rationalizations of the HMO's. Clearly, they need regulatory direction.

With 184,000 new cases each year, breast cancer is the most common form of cancer afflicting American women. My home State of New Jersey has the fourth-highest number of breast cancer cases in the Nation and the third-highest number of deaths from breast cancer. Those statistics make the seriousness and scope of this tragic disease absolutely clear. Someday, we may find a cure. But in the meantime, we must do everything possible to ensure that women who contract breast cancer receive proper medical treatment—and that proper care is placed ahead of insurance companies' bottom line. Please support the Breast Cancer Patient Protection Act of 1997.

Mr. FROST. Mr. Speaker, I am pleased to rise in recognition of the month of October as Breast Cancer Awareness Month. This year alone, 180,000 women in this country will be diagnosed with breast cancer. Although there is no cure, the best way known to prevent breast cancer is through early diagnosis and treatment.

Two bills have been introduced to combat breast cancer. House Resolution 135, the Breast Cancer Patient Protection Act, guarantees that women who must undergo surgery for the treatment of breast cancer get the hospital stay they need and deserve. This legislation requires a woman to receive a minimum hospital stay of 48 hours for a mastectomy, and 24 hours for a lymph node removal. This will enable women and doctors to determine how long they need to stay in the hospital and not the insurance companies.

The other bill is House Resolution 164, the Breast Surgery Benefits Act, which targets insurance coverage for breast reconstruction. It requires group and individual health insurance plans to provide coverage for reconstructive breast surgery if they provide coverage for mastectomies. This bill will protect many of the mastectomy patients that are denied coverage for breast reconstruction each year.

Breast cancer is a serious problem facing every woman in the United States today. I believe that breast cancer deserves more attention and that is why I am a cosponsor of both of these bills. Breast cancer is not going to go away and we must, in any way that we can, protect our women from the dangers of it.

Mrs. MALONEY of New York. Mr. Speaker, it is my pleasure to join my colleagues, ROSA DELAURO, ANNA ESHOO, and others tonight to salute October as Breast Cancer Awareness Month.

We know, all too well, the devastating facts:

With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women.

I was pleased earlier this year, Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women.

By including my bipartisan bill, this budget agreement makes a wise investment that will save women's lives.

But there is more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late.

But sometimes, when treatment is available, a woman can undergo a mastectomy which may save her life.

Unfortunately, very often, we've seen women who have been forced to leave the hospital with drainage tubes still attached. And just like the drive-thru delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act.

This bill will eliminate these so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy and a minimum of 24 hours following a lymph node dissection for the treatment of breast cancer.

I am also proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by Representative ANNA ESHOO.

This bill would require health insurance companies to cover reconstructive breast surgery if they already pay for mastectomies.

I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now, thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of the legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote:

> On August 25, 1997 a lumpectomy showed that indeed, I did have breast cancer. An axillary lymph node dissection showed that the cancer has traveled to my blood stream. I am 34 years old. I am undergoing chemotherapy, and will also to have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us.
>
> My mother's two best friends died of breast cancer, one when I was too young to remember, and the other when I was 18. It was devastating for everyone and we are convinced that it was the love of family and friends that helped one friend fight 10 years with this disease. Coming from a family in which no woman has ever developed breast cancer, the pop culture leads me to believe that I am not at risk. Only through doing research on my own have I learned that every woman is at risk regardless of age, family history, or geographical location. This is a silent killer that must be stopped. Our world desperately needs its mothers, sister, aunts and friends.
>
> I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy with reconstruction. I am still in the process of reconstructive surgery. I also underwent seven months of chemotherapy.

We need to make sure mastectomies and reconstructive surgery are safe, and covered.

I thank my colleagues for organizing this special order, and I salute the women who are facing these issues every day.

You are our inspiration, and we will continue fighting for you.

Mr. DINGELL. Mr. Speaker, I am pleased today to join with my colleague from Connecticut [Ms. DELAURO], to urge our colleagues to cosponsor the Breast Cancer Patient Protection Act of 1997. This legislation seeks to ensure that women and doctors—not insurance company bureaucrats—decide how long a woman who has a mastectomy should remain in the hospital.

For any woman, learning that she has breast cancer is one of her most frightening experiences. Learning she must have a mastectomy, a surgical procedure that will alter her body and her life, can be devastating.

For an insurance company to dictate to a woman, facing one of life's greatest challenge, that she must leave the hospital whether she is ready or not, is the ultimate insult.

Late last year, I came to a more precise understanding of the trauma a woman faces when she learns she must have a mastectomy. A member of my staff in Michigan, Connie Shorter, practically awoke 1 day to the stunning and agonizing reality that she had cancer. As if physical and psychological pain of the disease were not already too much to cope with, soon Connie would discover the pain of a process which neither she nor her doctor could control.

Earlier this year, Ms. Shorter was asked to the White House to join with First Lady Hillary Rodham Clinton in relating the difficulties associated with drive-thru mastectomies. There are no words better than Connie's own as she told her story to the First Lady:

> What makes this awful situation worse is that I was discharged eight hours after two major surgeries. I was appalled to learn that this is routine, and I learned very quickly why. Being sent home only a few hours after surgery was not because of my medical condition or because of my doctor's specific recommendation.
>
> Coming home was not easy. From the moment a woman walks in the hospital door in the morning for her unwanted mastectomy, until she is wheeled out that afternoon, she feels she has been through one of the world's most painful physical and psychological wars, a very personal loss and incredible physical battle * * * after my experience, I could not feel more strongly that a woman and her doctor are the only two people who should decide when she should leave the hospital after surgery.

Every medical specialty organization in this country challenges the right of insurance companies to interfere in the decision of what treatment is medically necessary or appropriate for a patient. Whether that patient is a young woman giving birth to a baby, or having surgery to treat breast cancer, the insurer has no right to be in the middle, between the patient and the doctor. And in no case should a patent be sent home less than 24 hours after a mastectomy so that an insurance company or hospital can save money.

Representative DELAURO and I, along with many other Members, placed this issue on the table at the end of the last session because we wanted every Member of this body to think about this matter before the convening of the 105th Congress. We spent several months researching the best, most effective way to accomplish the goals we laid out last year. This legislation is consistent with the Kennedy-Kassebaum health insurance reform bill and with the MOMS bill passed last Congress, providing 48-hour maternity stays.

H.R. 135 goes where many angels have feared to tread, into the hallowed halls of a well-heeled industry that is trying to make cost, rather than care, the driving principle of our health care system. This legislation just says ''no.'' It says to anyone who is not the patient or the patient's doctor: ''No, you may not dictate when a patient must leave the hospital.''

Mr. Speaker, I am very happy to report that almost a year after her surgery, Connie Shorter is a breast cancer survivor, and remains a vital and effective member of my senior staff. More important, she remains a loving, caring and giving spouse, mother, and grandmother, and we all expect her to continue in all these roles for a very long time.

As Connie's story reveals, the devastation of breast cancer is too great to allow Congress to ignore the risks of inadequate medical care. The difficulties, both physical and psychological, associated with mastectomy are too complex. This legislation seeks to ensure that insurance snafus and mindless refusals do not make these difficult situations impossible.

Today, H.R. 135 has almost 200 cosponsors from both sides of the aisle. In addition, a nationwide campaign on the Interned has begun to push us to give this bill and other crease cancer legislation the hearings they deserve. I urge my colleagues who have not already cosponsored this legislation to do so now, and express the hope that Congress will listen to respond to the women of America who seek better and more reliable treatment for breast cancer.

GENERAL LEAVE

Ms. DELAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BRADY). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

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

[Mr. METCALF addressed the House. His remarks will appear hearafter in the Extensions of Remarks.]

RECOGNIZING OCTOBER AS BREAST CANCER AWARENESS MONTH

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

Mr. CLEMENT. Mr. Speaker, I rise on this special occasion, recognizing October as Breast Cancer Awareness Month.

Mr. Speaker, breast cancer is the most common form of cancer affecting women in the United States, with one out of eight women developing this disease in her lifetime. It affects mothers, daughters, wives, and sisters. Both its cause and the means for its cure remain undiscovered.

In honor of October as Breast Cancer Awareness Month, I am pleased to lend my support for the initiatives of this Congress to not only work toward eradicating this dreaded disease, but to ensure that women receive the proper treatment they deserve.

I would like to take this opportunity to call attention to the Internet petition. This petition gives constituents across the Nation a chance to voice their support for the initiatives by the gentlewoman from California [Ms. ESHOO] and the gentlewoman from Connecticut [Ms. DELAURO] to stop insurance companies from forcing women to have drive-through mastectomies, and denying women coverage for reconstructive breast surgery following mastectomies.

As a cosponsor of both of these bills, I am pleased to support this legislation, which would provide much needed improvements in coverage for breast cancer treatment.

A young lady from my State of Tennessee who lost her mother to breast cancer a year ago signed the petition earlier this week. She also added, ''Not only do we need to stand up for the above initiatives, but we need to stand up for better treatment and cures for this deadly disease.''

Yes, Mr. Speaker, we do need to stand up for better treatment and cures for this deadly disease. I encourage the House of Representatives to hold hearings on these two bills in an effort to see that this legislation is passed into law.

Like many of us down here on the floor tonight, I am dedicated to expanding the Federal commitment to eradicating breast cancer through increased outreach and education programs, as well as through regulation and provision of treatment. Let us work together to find a cure for this dread disease.

Mr. Speaker, I also want to brag on my wife, too, Mary Clement, because she is on the board at the Vanderbilt Cancer Center in Nashville, TN. She is very outspoken on this particular issue; and also my aunt, who is a State senator, or a former State senator now, from the State of Tennessee, Annabelle Clement O'Brien. She passed some major legislation in the Tennessee General Assembly several years ago, and was just honored, alongside Dr. Benjamin Byrd. Both of them were honored at Vanderbilt University, and I congratulate them.

If all of us will work together, we can accomplish great things.

THE CITIZENSHIP REFORM ACT OF 1997

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

Mr. BILBRAY. Mr. Speaker, I rise today to address the Citizenship Reform Act of 1997. The Citizenship Reform Act of 1997 amends the Immigration and Naturalization Act to deny automatic citizenship to children born in the United States who were not born by parents who are legal resident aliens or permanent residents, or U.S. citizens.

Now, Members may say there are not that many people out there who are born to citizens of tourists or illegal aliens, and it is not that big a deal. Mr. Speaker, let me clarify that this has become a big deal. In California alone, we have addressed this issue and seen this issue grow. Over 250,000 children of illegal aliens are now qualified in the county, in one county, of Los Angeles, over 250,000 qualify for benefits such as Medicare, AFDC, WIC, and SSI. In fact, two-thirds of the births in Los Angeles County, Mr. Speaker, in the public hospitals of Los Angeles County, are to parents who are illegal aliens.

The fact is that the cost to the State of California alone is $500 million for providing welfare and health benefits to the children of illegal aliens. Forty percent of all births in the State of California are children of illegal aliens.

These costs are not just borne by the people of California, they are borne by everyone. I think it is an issue that we now have a responsibility to address. The fact is we have created a loophole and created a benefit for people who break our laws.

I do not fault the mothers who come to the United States so their children can get automatic citizenship and get all these benefits. I do not fault them at all. They are only doing what is legal for them. Who I fault is Congress in Washington, DC, for having this huge loophole, this great encouragement for people to immigrate illegally.

Just in Texas there has recently been a report coming out showing that birth certificates are being sold to Mexican nationals for children that were never even born in the United States. In fact, one midwife has sold over 3,800 phony birth certificates so children could

then qualify for welfare benefits and Social Security benefits.

In fact, it is estimated that in one sting operation alone where there were 89 people arrested, over $400,000 of alleged fraud was committed under the guise of utilizing the automatic citizenship clause through phony certificates. The granting of automatic citizenship to children born in the United States has led to this kind of fraud. Regardless of the parents' status, we are rewarding people for violating our laws.

We are talking about fairness here, too, Mr. Speaker, because how many people are waiting out there, 3,500,000, to immigrate legally? How many children are born to these 3,500,000 people who are playing by the rules? Do we give them automatic citizenship? No. We tell them, like we should be telling the children of illegal aliens, you have the right to apply for citizenship like anyone else, but we are not going to give you automatic citizenship.

I think it is quite unfair that we tell one group of people that your children get automatic citizenship because you broke the law and then tell another group of people, 3,500,000, that you will not get this privilege because you did not break the law. Fairness tells us we need to take care of this problem. Thousands of legal immigrants are waiting, and many, many thousands of illegal aliens are getting rewarded.

There may be those who say that H.R. 7 is unconstitutional. Mr. Speaker, the Supreme Court has never ruled on the issue of illegal aliens getting automatic citizenship for their children. They have ruled on legal aliens, and they have said that because legal aliens were allowed in this country and agreed to come to this country, they have the burdens of loyalty and obligations of service in the draft. With that obligation comes the inheritance for their children of automatic citizenship. Illegal aliens do not have that obligation, and thus cannot pass on a citizenship right to their children as legal immigrants can and U.S. citizens.

Mr. Speaker, the status of H.R. 7 is we have 51 bipartisan sponsors. The hearing was held on June 25. We are looking forward to a markup in early November, and frankly, I would encourage every citizen in the United States and every legal resident to contact their Congressman and ask them to join in the Immigration Reform Act of 1997, and bring some logic and some fairness back into our immigration policy.

Let us start rewarding people for playing by the rules and stop punishing them for obeying the laws.

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

[Mr. PRICE of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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

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

JOIN THE FIGHT AGAINST BREAST CANCER

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

Mr. MCGOVERN. Mr. Speaker, breast cancer is currently the second leading cause of cancer deaths among American women. One woman in eight will develop breast cancer during her lifetime. In 1996 alone, an estimated 44,000 women died from this terrible disease.

While these statistics are sobering indeed, there is hope. If breast cancer is detected early, the probability that a woman can survive is greater than 90 percent. Certainly, we must do everything in our power to identify the signs of breast cancer early, treat the symptoms aggressively, and make continued medical attention affordable and accessible. As we celebrate Breast Cancer Awareness Month, we in Congress should recognize the obligation that we share in the national battle against this terrible illness.

I am a cosponsor of several important pieces of legislation that seek to establish high standards for quality and affordable medical treatment of breast cancer, including H.R. 164 and H.R. 135, which my colleagues, the gentlewoman from California, Ms. ANNA ESHOO, and the gentlewoman from Connecticut, Ms. ROSA DELAURO, introduced earlier this year. Both of these measures would give breast cancer patients who undergo mastectomies the health care coverage they need to fully recuperate from their illness.

When I meet the women throughout my district in Massachusetts, I hear how concerned they are that their health insurance will not adequately provide for them if they are one day diagnosed with breast cancer.

Back in January, the Massachusetts Breast Cancer Coalition wrote me to ask that I cosponsor the legislation of the gentlewoman from Connecticut [Ms. DELAURO], which requires a 48-hour minimum hospital stay for patients undergoing mastectomies, and a 24-hour stay for lymph node removal for the treatment of breast cancer.

Under the legislation drafted by my colleague from Connecticut, physicians and patients, not insurance companies, determine whether or not a shorter hospital stay is warranted. I strongly agree with their sentiment, that decisions about hospital stays following these painful and psychologically distressing surgeries should be between the health care provider and the patient. I was proud to become a cosponsor of that legislation.

The gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] have also worked to establish a site on the World Wide Web that allows visitors to learn more about breast cancer, read and submit personal encounters with the disease, and build support for many of the legislative initiatives that seek to improve conditions for breast cancer patients.

As I read through some of the personal stories posted on that Internet site, I noticed a number of individuals who had written from my home State of Massachusetts, and I would like to share a couple of those stories.

Lynn DeCristofaro of Massachusetts wrote, and I quote: ''I am only 16 years old, and I had to watch my 24-year-old sister die from breast cancer. I watched her come home after a mastectomy when it was obvious that she should be in the hospital.''

Mrs. R. Russell of Massachusetts wrote: ''I am a breast cancer survivor who is doing very well. However, I never know if the day will come that I have a reoccurrence. I think a recurrence is enough to worry about, without additional concern that my insurance company may not adequately cover my care.''

Christopher Carron of Massachusetts wrote: ''Two years ago my mother was diagnosed with breast cancer. She immediately had a mastectomy and reconstructive surgery. Luckily, she lives in Connecticut, where minimum stays in the hospital are required by law, and her health insurance company was flexible in the amount of time she spent in the hospital.

''I now realize that my mom's care was the exception, not the rule. Please end the inhumane treatment of our Nation's mothers, daughters, sisters, grandmothers, and granddaughters, and vote for H.R. 135 and H.R. 164. These women need to be treated with dignity and more than ample health care. My mom is now a 2-year cancer survivor and is fighting for herself and the rights of millions of other women who have faced this horrible battle. Thank you,'' he wrote.

Mr. Speaker, after hearing the stories of these individuals and countless others like them, I do not see how any Member of this body could say that current law is doing an adequate job of addressing the health needs of breast cancer patients in America.

□ 1730

Doctors in this country are spending far too much time fighting with insurance companies to get permission to give their patients the treatment they need. Physicians who treat women suffering from breast cancer should never be put in that position.

Our legislation will allow doctors to make decisions based on the health and long-term well-being of their patients and not the bottom line. Clearly we in Congress must do more to ensure that women suffering from this dreaded disease have access to quality, affordable,

and complete health care coverage that they need and they deserve.

Mr. Speaker, I urge my colleagues to become cosponsors of H.R. 135 and H.R. 164 and to reassert our commitment to protecting the health of American women.

CONGRESS SHOULD OPPOSE INCREASES IN WHALING

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

Mr. METCALF. Mr. Speaker, for the last 3 days I have been in Monaco at my own expense to try to prevent the renewal of whaling in the continental United States.

From the beginning of this debate over whether the Makah Indian Tribe in Washington State should be allowed to resume the practice of hunting whales after a 70-year cessation, I have maintained what is being described as ''aboriginal subsistence whaling'' is not that at all. It will in fact lead to a tragic resumption of commercial whaling and a geometric increase in the number of whales killed worldwide.

Without now addressing whether the Makah Tribe itself is motivated by the $1 million value of a gray whale in Japan, other powerful evidence exists that indicates that we are on the threshold of a dramatic increase in whaling. The official U.S. delegation to the IWC has been asking for a change in the definition of aboriginal subsistence whaling, the only type of whaling now legal under the International Whaling Commission, which the United States has ratified.

In their shortsighted attempt to legalize the intentions of the Makah Tribe, the United States is asking the other nations at the IWC to expand the definition of subsistence whaling to permit cultural issues to be addressed. Why? Currently aboriginal whaling is solely for the physical nutrition of the tribe in question. In other words, they need the food. It is obvious the Makah do not need to eat whales to survive.

What is the problem with expanding the definition into the cultural realm? There are villages and people all over the world who have a cultural history of whaling but who do not now qualify under the current definition of subsistence.

Saturday at the IWC hearings, the Japanese repeatedly asked the United States delegation: What is the difference between the Makah request and the desire of four villages on the Taiji Peninsula to resume whaling? It is obvious the Japanese are going to use this loophole that our own delegation is attempting to create to increase their commercial harvest of the whales. Other nations will undoubtedly follow suit if the Makah are successful.

Mr. Speaker, we cannot allow this to happen. The killing of whales around the world is on the increase. For this fraudulent cultural subsistence to become a legal authorization for further killing would be a tragedy. In addition, staff members of other IWC delegations have indicated resentment at the tremendous pressure the U.S. delegation is putting on other nations to support this fraud.

However, this pressure may not be changing votes. Observers today have informed me that the United States is now attempting to set an even more dangerous precedent of lobbying to increase the Russian gray whale quota. This new tactic would allow, this under-the-table deal would allow the Russians to give the Makah five whales at no loss to themselves. More importantly, this backroom style deal would not require a vote of the IWC. In other words, when they ran into trouble they are trying to go around the system.

A new whale hunt could then occur without IWC authorization. This is dangerous and dishonorable, Mr. Speaker. Frankly the tactics of this administration have been an embarrassment. They depicted the 43 Members of Congress who signed the letter that I took there that oppose the Makah as the only opponents in Congress.

Mr. Speaker, does anyone really believe that 389 Members of this House support the killing of whales in the continental United States? When pressed, the U.S. delegation could only name two Members of Congress who support the Makah hunt.

Mr. Speaker, they are not representing the best interests of our Nation or the sentiments of the vast majority of our people. It is now time for Congress to speak in a large, loud, bipartisan voice in condemnation of this blatant attempt at the expansion of commercial whaling. The vote will be tomorrow, and this is a critical issue.

ADDITIONAL FUNDS FOR RESEARCH NECESSARY TO SOLVE PFIESTERIA PROBLEM

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

Mrs. CLAYTON. Mr. Speaker, Pfiesteria has plagued North Carolina for many years and experts now think that this organism was first observed in our waters almost 20 years ago in 1978.

While the Old North State has made multiple efforts to address this pestilence through estuary studies, nondischarge rules, phosphate bans, rapid resource teams, nitrogen load reduction, nutrient limit reductions, source wetland restoration programs, and a 2-year moratorium on new and expanding swine farms, Pfiesteria is an enigma for us all as it has been found in many Atlantic waters from the Chesapeake Bay south to Florida and west to Texas.

We must work together constructively and effectively, Federal, State, and local governments and agencies, academic researchers, concerned citizens, to attack and find rapid and workable solutions to this predicament.

Mr. Speaker, now is the time to find additional funds for Dr. Burkholder, one of the leading researchers in the area, as well as other scientists and researchers like her, in order to answer the remaining questions concerning the effects of Pfiesteria on humans, animals, and watersheds.

The waters of North Carolina have certainly felt the effects of the Pfiesteria outbreak, especially in the Neuse River, the Tar River, the Pamlico River, as well as the entire Albemarle-Pamlico Estuary, parts of which are in my congressional district. There have been more than 1 million fish killed in our State and many reports of human health problems. Given the adverse impact of such significant fish kills upon my district, North Carolina, and the mid-Atlantic, we need to seek solutions through aggressive research.

Mr. Speaker, we face a very serious threat that must be addressed immediately. We should not rush to judgment, however. Scientific inquiries are ongoing, but we should not waste time. Further research and testing should be undertaken at once. It is my hope that funding for critically needed research and testing will come as a result of recent hearings in the Committee on Resources and the Committee on Government Reform and Oversight.

Only through funding will come opportunities for a solution. Additionally, several of my mid-Atlantic colleagues and I introduced H.R. 2565 on September 26, 1997, the Pfiesteria Research Act of 1997. This bill appropriates a minimum of $5.8 million in fiscal year 1998 and 1999 for the establishment of a research and grant program for Pfiesteria through EPA, USDA, and HHS.

All North Carolinians and others who live, work, and play in the affected waters look forward to successful results of this research, and that is because many of their lives and their livelihood depend upon it.

TRIBUTE TO MAJOR GENERAL FRANK WORTH ELLIOTT

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

Mr. EWING. Mr. Speaker, I come here tonight saddened with the responsibility of informing this House of the loss of a great American, a man who served his country for many years, a man who reached the rank of Major General in the Air Force, a citizen of the 15th district of Illinois and a friend and somebody who will be missed a great deal by all who knew him.

Mr. Speaker, memorial services for U.S. Air Force Major General Frank Worth Elliott of Rantoul, Illinois, will be held at the United Methodist Church

in that community on Friday of this week. Private burial will take place at a later time.

Mr. Elliott was born on December 2, 1924, in Statesville, North Carolina, son of Frank W. and Lois Young Elliott. He married Evaughn ''Bonnie'' Close on January 7, 1950, at Rapid City, South Dakota. His wife survives him. He is also survived by two sons, Frank Elliott of Santiago, Chile; Jeff Elliott of Albany, Georgia; and a brother, Jim Elliott of North Carolina, along with five grandchildren in whom he took great pride and affection.

General Elliott graduated from high school in 1941, and he attended college in California and in North Carolina, before he enlisted in December of 1942 in the U.S. Air Force. He later did complete his college work at Charleston, Illinois, at Eastern Illinois University in 1973.

He completed pilot's training and was commissioned a Second Lieutenant in March of 1944. He completed a tour of combat duty as an air crew commander of B–24s with the 15th Air Force in Italy during April of 1945, and he was promoted to Captain in that same year.

General Elliott remained in the service after World War II. He served in a number of different capacities, in operational supply and aircraft maintenance positions, until 1963 when he was promoted to the grade of Colonel while serving as the Deputy Commander for an operations wing of B–52s based in California.

He has attended the War College right here in Washington, D.C. General Elliott commanded the 92nd Bomb Wing at Fairchild Air Force Base in Washington from January 1969 to January 1970, when he was promoted to Brigadier General. He was the commander of the 14th Strategic Air Division at Beale Air Force Base, California, and from 1970 to July of 1971, he was assigned to the Air Force base in Thailand as Commander of the 307th Strategic Wing.

General Elliott was promoted to Major General and then as Commander of the Chanute Technical Training Center at Chanute, Illinois, which brought him into Illinois again, and into the 15th Congressional District. He served there with distinction. He retired from the Air Force in September of 1975 after completing 33 years of active service.

Later, after a few years of retirement, we were so pleased when General Elliott returned to Rantoul to serve as an economic development consultant to the Village of Rantoul. This was at a time when the community of Rantoul was quite fearful. There was a great deal of concern in the community because the Chanute Air Force Base was being closed under the base closure passed by this Congress. A large number of jobs were being lost to the community.

General Elliott was a man for all seasons, a man who came to the rescue of his adopted community. He served them well. He will be greatly missed. I am glad to come here tonight to put this in the RECORD for his memory.

□ 1745

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

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

IN HONOR OF THOMAS HENDRICKS, ONE OF THE LAST LIVING BUFFALO SOLDIERS

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

Mr. BARRETT of Wisconsin. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding member of my community and one of the last surviving Buffalo Soldiers of the United States Army, Mr. Thomas Hendricks. The story of Thomas Hendricks and his fellow Buffalo Soldiers who served before him will forever be a significant part of the history of America.

The legacy of the Buffalo Soldiers dates back to post Civil War days. Although African Americans have fought with distinction in all of this country's military engagements, their future in the Army was even in doubt after the Civil War. In July 1866, however, Congress passed legislation establishing two cavalry regiments and four regiments of infantrymen, later merging two, whose composition was made up entirely of black soldiers.

The troopers of the 9th and 10th Cavalries developed into two of the most distinguished fighting units in the Army. The fierce fighting techniques of these soldiers and their bravery on the battlefield inspired Native Americans to call them Buffalo Soldiers. Although history has often overlooked the contributions of the Buffalo Soldiers, I am proud to salute one of its finest cavalrymen, Thomas Hendricks. He is a man of courage and wears the name Buffalo Soldier with honor and great pride.

Thomas Hendricks was born on February 14, 1920, in Evanston, Illinois. As a young boy, he was strongly influenced by his grandfather, James Hendricks, who was also a Buffalo Soldier and served our country with distinction. It was actually his grandfather who inspired him to become a Buffalo Soldier and carry on the legacy of the hundreds of thousands of African Americans who have given their lives for the sake of freedom in our country.

Thomas Hendricks joined the 10th Cavalry of the U.S. Army in 1938 as a volunteer after receiving extensive military training under the tutelage of his grandfather. A few years later, he was sent to Ft. Hood for training and went on to pursue a distinguished military career which extended more than a decade.

Throughout his career as a Buffalo Soldier, Tom Hendricks has received numerous honors, including Battle Stars, for his valiant efforts in World War II. He was engaged in military conflicts including the Normandy Invasion and the Battle of the Bulge. Although much has changed since the days of the Buffalo Soldiers, including the integration of all military servicemen and women, the story of Tom Hendricks and his fellow Buffalo Soldiers who served before him will remain one of great patriotism and unsurpassed courage.

I urge my colleagues to join me in saluting Thomas Hendricks for his accomplishments as a Buffalo Soldier. We owe him a tremendous debt of gratitude for his service to our country, and we should all be proud of his contribution to our Nation's military history.

BREAST CANCER AWARENESS MONTH

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

Mrs. MALONEY of New York. Mr. Speaker, I rise to participate in the special order organized by my colleague, the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] and others to salute October as Breast Cancer Awareness Month.

We all know too well the devastating facts. With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women. I was pleased earlier this year that Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women. This bill was first introduced in 1992 along with Barbara Vucanovich, who is herself a survivor of breast cancer.

We were very pleased that it was included in the balanced budget this year. It certainly makes a very wise investment that will save women's lives. But there is much more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late. But sometimes when treatment is available, a woman can undergo a mastectomy which may save her life. Unfortunately, very often we have seen women who have been forced to leave the hospital with drainage tubes still attached and just like the drive through delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act. This bill will eliminate the so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy, and a minimum of 24

hours following a lymph node dissection for the treatment of breast cancer.

I am also very proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by my colleague and friend, the gentlewoman from California [Ms. ESHOO]. This bill would require health insurance companies to cover reconstructive breast surgery, if they already pay for mastectomies. I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of this legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote, and I quote, ''On August 25 of this year, I learned that I did have breast cancer. A further study showed that the cancer had traveled to my bloodstream. I am 34 years old. I am undergoing chemotherapy and will also have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us.''

I quote from another letter. I would like to put a series of them in the RECORD. Quoting, ''I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November of 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy. I am still in the process of reconstructive surgery. I thank government. You must do more to help women like me.''

Mr. Speaker, we need to make sure mastectomies and reconstructive surgery are safe and covered. I thank my colleagues for organizing this special order tonight and I salute the women who are facing these issues every day. You are our inspiration and we will continue fighting for you.

REFORM OF THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to discuss an issue that has received quite a bit of attention over the last couple of weeks and months. However, many have raised concerns about this for a period of time.

Today, however, I think we can bring this discussion to a higher note in a bipartisan manner that reflects greater interest in saving the voluntary taxpaying system that we have in this Nation, but as well, acknowledging that there have been serious problems that have plagued the Internal Revenue Service as perceived by taxpayers in the variety of stories that they have been able to share with Congress on this very point.

I felt compelled to address this question in my own district, for it is one thing to hear of a national outcry. It is extremely important to allow your constituents to share their own individual cases that may have occurred.

Not one single witness got up and wanted to declare the abolishment of the IRS or to say that they no longer wanted to share the responsibility of this great government, the government that provides with national security your protection, provides for public education, the safety of our air and water, that provides for our national law enforcement, the beautiful national parks and monuments that we appreciate, the protecting of this capital. Citizens to a one concluded that they wanted to be part of this government and part of supporting it.

But each of them could recount for me an unfortunate set of circumstances that made them feel intimidated and unable to deal with addressing their problems of questions about the taxes that they paid or were alleged to have not paid.

In particular, let me honestly say in this hearing that I held on Friday, October 17th, many citizens and constituents that I asked to participate or suggested that they might were, in fact, frightened and intimidated and did not want to come forward for fear of being targeted. That is not the kind of agency we would like to have.

Let me say in defense that representatives of the IRS employees union also came forward and mentioned the many good and dedicated and sincere employees that want to work within the bounds of the law, want to work with taxpayers and want to ensure that that kind of intimidation does not exist.

With that hearing behind me, I thought it was extremely important to compliment the process today of a bill marked up in the Committee on Ways and Means and offer my own legislation, entitled the Taxpayers Justice Act of 1997. I focus on justice for taxpayers.

I agree with those who are supporting elimination of the marriage tax penalty. My bill includes that. We should encourage those who are married, live together, support families and pay taxes. Why should they be penalized because they are not single?

I also support the creation of civil and criminal penalties for IRS employees who work outside the bounds of their job description and scope, who harass or intimidate taxpayers, do not give them a chance to explain their situation.

I am supporting a two-year commission to help simplify the Tax Code so that we are not going through mounds and mounds of paper, some 9000 pages of the Tax Code. That simply cannot be.

I am also interested in creating a taxpayers advisory board of real, plain, average taxpayers, not the major giants across the Nation, but just the average citizen who, every day of their life, is trying to comply with the laws of this land.

I want to eliminate potential discrimination, job discrimination at the IRS, and potential discrimination of those who may be targeted because of race, sex or ethnic origin or religion origin to be audited. I also want to be assured or assure divorced women whose incomes are less than their spouses that they are not penalized with the taxes of past mistakes in marriage so that there is some protection for them. And, yes, rather than rushing a taxpayer to the courthouse where their resources are exhausted, I would like to see the utilization of mediation and dispute resolution so that taxpayers and the IRS can sit down and attempt to resolve their differences. There is some form like that, but it is not where it is moved in a direction that reinforces the taxpayer that this is the right thing to do, to sit down in mediation.

Overall, we have a good system that supports this government. But whenever you call a hearing on the IRS and your constituents run the opposite direction rather than come to the table to provide insight and information, you know you have a problem. The Taxpayers Justice Act of 1997 is to compliment the Act of the Committee on Ways and Means, but also to address your concerns, that of the taxpayers of this country who need justice.

I hope Members will support the Taxpayers Justice Act of 1997.

BREAST CANCER AWARENESS MONTH

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

Mr. BROWN of Ohio. Mr. Speaker, I join my Democratic colleagues this evening in a series of special orders during Breast Cancer Awareness Month to discuss what we should do in this Congress and in communities across the country to prevent and to cure this dreadful disease of breast cancer.

Recently, at a breast cancer awareness forum at the Elyria, Ohio WYCA, a woman recounted the story of holding her ailing mother's hand as she was wheeled down a sterile hospital hallway to a surgical room where she was to receive a lifesaving mastectomy. Another breast cancer survivor shared with us the emotional toll this deadly disease took on her and her loved ones.

This type of meeting to promote awareness and education about this deadly disease is not an unfamiliar sight in the industrial communities I represent in northeast Ohio. A study conducted by the Ohio Department of Health estimates that one in three women in Ohio will develop some form of cancer in their lifetimes and one in nine women will develop breast cancer.

Ohio unfortunately ranks 11th in the Nation in breast cancer deaths and 9th in total cancer deaths among women.

Northeast Ohio has been particularly hard hit by this tragedy. There is no magic bullet in our fight against breast cancer. There is no vaccine. There is no guaranteed cure. However, early screening, detection and treatment of breast cancer offer women the best hope of beating breast cancer and leading long, healthy lives.

In an effort to increase local awareness of the importance of early detection and treatment options, I helped found the Northeast Ohio Breast and Prostate Cancer Task Force in 1994.

□ 1800

This dedicated group of volunteers includes cancer survivors, medical researchers, and health care professionals such as doctors and nurses.

The mission of the task force is twofold:

First, it works to support and supplement ongoing public education efforts in breast cancer in northeast Ohio. Last year, the members of the task force put together a comprehensive, easily readable pamphlet to provide information to women on how to prevent breast cancer and the importance of periodic screening. It was packed with information on counseling and whom to talk to about treatment options.

Volunteers distributed these pamphlets to 273 hairdressers and beauty salons in northeast Ohio in a local campaign to eradicate breast cancer. We worked with the Women's Preventive Health Care Services program offered by the Cuyahoga County Board of Health, which provides information on early detection of breast and cervical cancer to medically underserved women, a group historically vulnerable to these killers.

The task force's second mission is to seek out any environmental factors which may cause northeast Ohio's higher than average rates of breast cancer.

To further this mission, my colleague, the gentleman from Michigan [Mr. STUPAK], and I were able to add language to last year's reauthorization of the Safe Drinking Water Act which requires the EPA to test whether certain chemicals found in drinking water cause breast or other forms of cancer.

The stories of the women at the Elyria YWCA and the efforts of the task force are vital because they represent our most important and potent weapon in the battle against breast cancer. Through the tireless efforts of breast cancer survivors, the local health care community, and ordinary residents and business owners, one small community is taking a stand. As their elected officials in Washington, we must do more, however, to help win this battle.

We must support legislation currently before us which would ensure that health insurance companies provide coverage for women who undergo mastectomies and the reconstructive surgery often required after this procedure.

Furthermore, women must never be forced out of the hospital on the same day a mastectomy is performed unless the patient and the doctor, not the insurance company, the patient and the doctor agree that it is in the patient's best health interest.

Lastly, we must continue to support increased funding for more biomedical research to improve treatment and to find a cure for breast cancer in other terminal and chronic diseases.

Until we are able to find a cure for deadly diseases like breast and prostate cancer, early detection and screening represent the best hope for the millions of men and women who will be diagnosed with these diseases. We should join with the millions of Americans, like the women at the Elyria YWCA and members of the task force, who are on the front lines spreading this life-saving message.

As we listen to stories of hope and sadness by those individuals whose lives have been touched by breast cancer, let us work together in Washington to ensure that patients have access to affordable, quality health care and demonstrate our commitment to winning this battle by providing the research dollars necessary for improving treatment and finding a cure.

SUPPORT OF LEGISLATION TO HELP WOMEN FIGHT BREAST CANCER

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

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of legislation that will help to fight breast cancer. These bills, including H.R. 1350 and H.R. 164, would ensure that women have sufficient time to recover from breast cancer treatments and ensure that women have the medical treatments they need to fight this difficult and dreadful disease.

Already 135 would ensure that women and doctors can work together to determine what is the best treatment for each woman. I am an original cosponsor of this bill that will require all health plans to provide minimum hospital stays for those women who undergo mastectomies and lymph node dissections. Without this protection, women may have to choose between their health and their treatments. In the past, Congress has acted to provide minimum protections for pregnant women and their children and we should provide the same protections for women with breast cancer.

H.R. 164 would ensure that women with breast cancer would receive the necessary breast reconstruction surgeries they need. This legislation would require all health plans to provide coverage for this surgery. Many health plans do not currently provide this coverage because health plans believe these surgeries are not necessary. I believe doctors and patients should decide which treatment plan would benefit each patient without interference from their health plans. This legislation would provide this much needed protection for breast cancer patients.

I would like to commend the gentlewoman from Connecticut [Ms. DELAURO] for organizing this special order to highlight these bills as part of Breast Cancer Awareness Month. It is particularly important to me, as the Representative of the Texas Medical Center, that I have many constituents who are active in the fight against the disease that we can defeat.

In honor of Breast Cancer Awareness Month, I would also like to highlight the work of two outstanding individuals who are constituents of mine: One, Dr. Dixie Melillo, a physician who operates the Rose, a clinic targeting women and in particular low-income women to ensure that they receive adequate breast cancer screening and treatment.

After years of hard work, Dr. Melillo has been able to expand her operation to three clinics in and around my district, and I commend her for her work.

Second, I want to honor Dr. Jennifer Cousins, who runs the Women's Health Initiative at Baylor College of Medicine, which recently celebrated its third anniversary.

Three years ago, the National Institutes of Health awarded Baylor College of Medicine a grant of $11.8 million to conduct the largest, longest clinical trial in Baylor's history. This study is examining the health of more than 5,400 women over a 12-year period, and focuses on diseases that are critically important to the health of women: Cardiovascular, colorectal cancer, osteoporosis and, in particular, breast cancer. Breast cancer is the second killer among cancer in women.

The information provided by the Women's Health Initiative will lead to breakthrough treatments for these diseases and improve the lives of women in Texas and across the Nation. The Baylor Clinical Center has recruited 3,300 women for an observational study to gather information regarding risk factors for these deceases.

The Baylor Clinical Center will also recruit an additional 2,100 women for a clinical trial to research whether diet and hormone replacement therapy will help women lead healthier lives. Information gathered from this clinical study will help women to make informed decisions about which therapies to use to prevent the disease and stay healthy.

I also want to highlight the efforts of Dr. Jennifer Cousins, Director for the Center for Women's Health, to bring this critical WHI study to the Houston area. I believe Dr. Cousins is critical to the success of this study, and she should be commended for her hard work.

Mr. Speaker, to really honor these two women leaders in Houston, the

House should schedule and pass H.R. 135 and H.R. 164 and show that we too in the House mean business in the fight against breast cancer.

REPUBLICAN LEGISLATION ATTACKS PUBLIC EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I expect to be joined in a few minutes by one of my colleagues.

This evening I would like to talk about the efforts that have been made by the Republican leadership to move various legislation which I consider essentially an attack on public education in this country.

Democrats, for a long time, certainly throughout this Congress, have stressed the need for this Congress to address education in various ways. We started out during the debate on the Balanced Budget Act this summer stressing the need for better access to higher education.

In fact, as a result of President Clinton's efforts and the efforts of the Democrats joining with him, we were able to include in the Balanced Budget Act, when it passed, some significant measures that would provide more access to higher education for the average American in terms of expanding student loan programs, providing tax deductions or tax credits that make it easier for the average American, the working American, to pay for college education or graduate education.

But now, after the Balanced Budget Act was passed, and certainly starting this fall, we have talked increasingly about the need to address the problems in our public schools, but in a very positive way. Our feeling is that the public schools in America are in pretty good shape but they certainly need improvement and that there are various ways to go about improving them.

One of the areas that we have talked about the most is the need to address the public school infrastructure. The fact of the matter is there are many public schools that have great need for repairs or even new construction because of expanded enrollment but do not have the ability within their school district to pay for those school construction or renovation needs.

In addition, there is the whole issue of basic skills; that more needs to be done to improve learning with regard to basic skills in the various public schools. And the Democrats have actually come up with a whole series of ideas about ways to improve public education, which I may get into this evening with some of my colleagues.

But before I do that, I wanted to talk about the fact that instead of emphasizing the need to improve the public schools, where better than 90 percent of America's students are enrolled, the Republican leadership, at least in the last few weeks, has instead embarked on an effort to try to take away resources, taxpayer dollars, from the public schools and use them, or credit them, to private or religious school initiatives.

Now, the best example of that was 2 weeks ago, before we adjourned for the district work period, the Speaker actually brought to the floor as part of the D.C., District of Columbia, appropriation bill a private school voucher program. It was a provision that would basically have provided funding to a very limited number of students within the District of Columbia, I think 2,000, approximately, which is really a drop in the bucket in terms of the number of students in the D.C. Public schools, and allowed them to take that voucher and use it for private schools either in the District of Columbia or in surrounding States.

This provision initially failed to pass the House, and the reason it failed to pass was essentially because most Members, and I am one of them, do not believe that it makes sense to take resources that could be used for things like school construction in the District of Columbia, which has a great need for school construction and renovation, and instead use that money to pay for private education.

The Speaker did not have the votes, actually, for the D.C. appropriation bill, in part because of the voucher provision, but what he did was he held the vote open and he twisted some fellow Republican arms to change their votes so he finally got a majority of one to pass the bill.

Despite this near failure, and I say near failure, because the way it was done it was clearly an indication that this was not a measure that had the support of a majority within this House of Representatives, but nonetheless, even with that, keeping that in mind, the Speaker is now once again, and the Republican leadership is now once again taking another step in this same direction, taking resources that could be used for public education and using them to pour taxpayer dollars into private and religious schools.

This was a provision that was originally proposed in the Senate by Senator COVERDELL. He has called it an education savings account but, essentially, it primarily benefits wealthy families. It allows them to basically provide tax-free funds that would be used to pay for private education.

Now, Democrats, and I believe this is coming up tomorrow, Mr. Speaker, but Democrats basically will put forth an alternative that will use this money for school construction bonds to help public schools that are in disrepair or in need of new construction. Without getting into the specifics of this provision, which I oppose, I am trying to make the point, and I think we as Democrats are making the point, that we need to improve the public schools rather than siphon Federal dollars for private schools.

We should not be giving up on the public schools. The public schools are where most of our children are educated. We have had an historic commitment to public schools in this country and, if anything, and I feel very strongly, we should be moving a Democratic initiative, which we have discussed and which our Democratic task force has put forward, that would provide improvements for public education rather than siphoning off this money for private and religious schools.

I see one of the cochairs of the Democratic education task force, which has taken the initiative to put forward these principles for America's public schools, my colleague from North Carolina, is here.

I was going to briefly, if I could, just outline some of the principles that the gentleman and his task force have put together, just to juxtapose those to what the Republican leadership has been trying to do in the last couple of weeks, and if I could just mention six very briefly.

These are the principles for America's public schools. First, an emphasis on academic excellence in the basics; second, well-trained, motivated teachers to help children achieve high standards; third, using public dollars to improve public schools rather than private school vouchers at public expense, which we have discussed; fourth, the Federal role in education that supports local initiatives for strong neighborhood public schools; fifth, empower parents to choose the best public school for their children; and, sixth, every child should have access to a safe, well-equipped public school.

Again, the task force does not take the position they are opposed to choice, but the choice should be in the public schools. We do not want to take taxpayer dollars and use them for private education.

I would like at this time to yield to my colleague, the gentleman from North Carolina [Mr. ETHERIDGE], who has taken the lead on this and who has been so well-spoken because of his background and experience on the issue of public education.

□ 1815

Mr. ETHERIDGE. I appreciate the gentleman from New Jersey [Mr. PALLONE] yielding and I appreciate very much the gentleman putting together this special order, because I think it is important to the American people to understand. Let me set a little history, if I may before we get to this because I think it is important.

I think of a great Congressman who represented the district that I now represent many years ago, a gentleman by the name of Harold Cooley, who at that time chaired the Committee on Agriculture in the U.S. Congress. It was his task to chair the Agriculture Committee during and right after World War II. Many of our young people who went

before the draft in World War II failed their physical. Congressman Cooley felt so strongly that he attached an appropriation and an authorization piece to a military authorization bill, defense bill, to provide for school lunches for the children of this Nation. Prior to that time, there had not been a hot lunch for children in our public schools across this country.

I set that tone because there are many who today say this is not the role of the Federal Government, or that is not the role of the Federal Government. Well, until about 1945, 1946, it had not been the role of the Federal Government to participate in the school lunch programs, either. I know this Congress last session, the majority, tried to strip that out, but when they heard from the American people, they changed their minds.

I will say to the gentleman, having been a superintendent for 8 years in the public schools of the State of North Carolina and having responsibility for about 1.2 million children, and having gone in those cafeterias, as a matter of fact, last week I was in 4 different schools, had lunch with two different classrooms of students, and I can tell the gentleman that instruction goes on in those schools all across America whether they are having lunch or they are in recess.

One of the things I wanted to point out was that the teacher, it happened to be International Day. Every day during the week they had a different country. One of the schools I was in, in Wilson, it happened to be the day for China. They had chop suey or they had egg rolls. What was so significant I think about it was that it was a first grade class that I was having lunch with and the teacher, and if you know first graders and kindergartners, you use your finger to point to the first letter as you start to read and they were reading to those children each line of the menu so they could identify the menu, and then they were allowed to stand in two different rows, depending on which menu they chose. It was quite obvious to me that there were children in each of those rows who had tried neither of those menus. But it was so instructive in the teachers working with them and I sat at the table with them, and we talked and of course as the gentleman can appreciate, there was a lot of media there, but they had a delightful time. But that is instruction.

I tell that little story to set the stage for what we are talking about, because Democrats are working to improve public schools in America. We have done that time and time again. We have set the tone. Education, public education, in my opinion, is the key to the foundation of our democracy. It is the one thing that helps bring people together. It is the one thing that levels the playing field for children no matter what their ethnic or economic background is, and it gives them a chance in this highly competitive world, and without an education they do not have it. I mean that when I say all children, not just those from the privileged, not just those whose parents can afford to send them to private schools or those who might get a few vouchers. All children, because any that are left behind are the ones I think that are deprived.

I want to talk just a minute, and I hope the gentleman will join me as we get into this, about reading, because I believe reading is the foundation, that is one of the pieces that we have talked about and the President laid out in his State of the Union address so strongly. Because reading is the gateway skill, let me repeat that again, reading is the gateway skill. We talk about how important it is today in the world we live in that is so technical, it is high tech. A report has just come out in the last 10 days about how important it is to have algebra, geometry and those higher skills in math, and I certainly agree with that wholeheartedly because North Carolina required algebra of all of our students back in 1991. We were one of the first States to do that. But until a child learns to read, all the other things are off the sheet, they are off the page. It is so important to do it early.

The President had requested in his program, America Reads Challenge, to have 1 million tutors. Many of them are volunteers and we have a lot of those in our State and across this country. But I thought it was a great stroke when he said of the money we are sending to our universities, we want to develop a partnership with the universities in this country to not only just get them to go into schools but get young people to understand it is important to volunteer again, and some of them were to be paid out of the funds that are in the current budget that is now hung up in conference, and I trust it will be broken loose because unless we do it, I really believe that we will do the children of this country a grave injustice and it will cost our country in the productivity of these young people, in the productivity of our economy a tremendous amount of money.

I would say to the gentleman that parents are the first teachers. There is no question about that. They are the first teachers that a child has in every family. I do not know of a parent that does not want their child to succeed, but there are a lot of parents who are nonreaders themselves, unfortunately, in a Nation as rich and as plentiful as we have it in America. But they want their children to read, and that is why we have a program for adults.

But I am going to talk about a school I was in last week, I went in a school system. They had a tremendous program that they have been involved in now for about 5 years, and it fits right into what the President is talking about, this issue of getting 100,000 college work-study students to serve as reading tutors. There are almost 800 colleges and universities, public and private, across this country who have now signed up to be a part of this program, assuming the funds are there. It is great to go out and teach, but what we have to have on the backside of it is accountability. I want to talk about those together.

We have to challenge every parent, teacher, principal and community member in each of our communities across this country to help get children started to learn to read by the time they are in the third grade. But to do that, we have to teach and we have to hold them accountable. We have to measure what we have done. Otherwise, we will not know how we get there. I think that is important.

It would be great if every parent would read to their child at least 30 minutes a day. Many do not. They do not have the time. But I think it would be super. And schools need to be able to provide high quality reading initiatives for all students, making sure that teachers know how to teach children to read, identify those that need extra help, and that is where the tutors come in. When you have 21 to 26 and in some cases, unfortunately, as many as 30 students in a class, a teacher cannot give the quality time that he or she wants to. They are hardworking people, they care so deeply about their children. We have to have the community members involved. America Reads Challenge, this tutoring program, is a tremendous program that we have a chance to make a difference. And businesses can be involved. The business community is involved, I know in our State, but there are more that can get involved, not only in tutoring but doing a lot of other things and encouraging parents, giving parents time off to go in and work with their children.

I would suggest they follow the lead of Johnston County schools, and I want to talk about that for just a moment because I have some charts here showing what happened when a school district says that we are absolutely going to make a difference for all of our children, not just a few, all children, and this is representative of the 100 percent of children in that school system where in 1993, only 65.8 percent of those children were what was called proficiency level. That means they could read at or above grade level and move on to the next grade. We see the next year there was a drop, and then we see progressive growth up to 76.1 percent in 1997. I predict that will continue to rise.

When we see that kind of growth in reading, a lot of good things are happening on the part of the teachers, on the part of the parents and on the part of the total community. There is great pride, there is tremendous work, and that is well above the national average as reported on NAEP. Because if we look at the numbers, we will see that in the 5-year period, they gained 11 points in their reading proficiency. But more importantly, let me show you what those points really translate into. Because what we are looking at here is a chart showing the 8th grade students,

and this is cohort data in reading. What that really means, the same group of students that were measured in 1993 were measured in 1997 in their growth patterns to see how much they had grown. If we look at the bottom cohort, which means level 1, they are not proficient, they are not doing well, and they really would not be able to move to the next grade and do the work. We see that number drop from 9.2 in 1993 down to 2.5 in 1997, almost a 7 percent drop. That represents a tremendous number of children. What is so important about that is we look at the numbers, we look at the cohort at the top, goes from 21 to 34. That is well above grade level, because the 48.6 percent here versus the 44.4 percent is really at grade level.

So we see the Johnston County School System is really doing what we want done in every school system all across our State and all across America because we are pushing more and more students up into the top two cohorts where we really need them to be proficient, to be able to handle the other things they have to do and the more sophisticated reading they need to do. Because we see in the second cohort in level 2, it drops from 25.4 down to 14.7.

If it were only in reading, it would be one thing, but let us look at what happened in math for those very same students. So it tells us we have got a system that is really doing some things because they are getting help. In 1993, students who were proficient, and that is a bar that is set. That is why when the President talks about standards it makes sense. It makes sense to talk about standards and then you measure to that standard because we have that. In 1993, it was 61.8 percent of the students in grades 3 through 8 were proficient in math. But look at the difference that 5 years made when they really began to focus, they realized what was expected. It was measured. It made a difference on the part of the parents, on the part of the students, because every student in this school system with their parent signs a contract. This is a public school system where they signed a contract. We see tremendous growth.

This is the kind of thing I think that we talk about when we talk about America Reads and the President's program of providing students a goal, providing resources, because, yes, it takes resources. But when we do it, we must have accountability and measure. And people need to know what we are doing and we get results. I think this is proof that we can improve our children's reading through our public schools. But we have to let them know what we want. Let me be the first to say, we cannot do it from Washington. But what we can do and what I think we should do and what we must do is say it is important, as the President had, and when we have done that, then we have got to be willing to stand behind it, because the job will get done at the local level.

Mr. PALLONE. What the gentleman has laid out there I think is very impressive and it really shows what can be accomplished in just a few years. I think that that is what we need to do. We need to emphasize here on the floor of the House how certain school districts have been very effective in improving basic skills and improving other aspects of public education. Because my whole point is that there are some really excellent examples of what can be done in the public schools and that I think generally most people are satisfied with the public school system but they would like to see some improvements.

Our point as Democrats has been throughout this debate, and it will continue throughout this session of Congress, that you should not be spending resources for private education when you can actually do things with some Federal help, if necessary, that would improve significantly education in the public schools. I think this is a very good example of that. The gentleman was very much involved in putting forward this Democratic agenda for first class public schools. I just mentioned briefly some of those points that the task force brought together.

□ 1830

But just to provide a little more detail, and maybe we can go back and forth and talk about some of these things, with regard to just the two issues of early childhood development, Basics by Six, and well-trained teachers, the task force, Democratic task force, mentioned a couple of things.

First of all, they said there should be the opportunity for every child to be ready to learn by the time he or she enters kindergarten, invest in early intervention, community-based programs such as Early Start, Head Start, engage parents and community stakeholders in the needs of at-risk children, use schools all day as the center of the communities for the services children need, including before and after school.

Then for well-trained teachers, that was the second point, help communities recruit and train well-qualified teachers who are certified in the subjects they teach, hire enough qualified teachers to bring down student-to-teacher ratios, incentives for qualified teachers to teach in high-need areas and strengthen parents' rights to know about teacher qualifications.

I think the point here is, because the last chart, and I think the one before, this certainly was from grades three to eight in both cases. That is eighth grade there, is that if you were able to get these kids even before they get to the third grade ready to learn, so to speak, it would make a big difference. But, again, the teachers, and having qualified teachers is an important part of this, and particularly bringing down that teacher-student ratio, because I would assume it is very difficult to improve basic skills if you have huge classrooms and because of the problems that result from having a very high level of students versus the number of teachers.

Mr. ETHERIDGE. If the gentleman would yield, the number of studies that put that out, Tennessee is a great example as a State that spent the money, reduced class sizes and saw some tremendous results from it. There is no question that it makes a significant difference in kindergarten through third grade, because that is where children are learning the basic skills, where there is so much need for personalized attention.

If you have a large class, as you were indicating, it is very, very difficult to be able to reach them. For some students, no problem, they will sail through. But those marginal students or those who show up at the public schools with all the number of problems they show up with today makes it very, very difficult for them to be able to make it.

But if you give them the skills and give them the opportunity to learn to read, to do the basic computations to get going, and you give them the chance to find out they really can do it, it makes all the difference in the world. And you cannot do all of that, as you have indicated, without having good ongoing staff development for your teachers, and then the rest of your staff, for that matter.

Certainly they are professionals. Certainly they work hard. But I do not know of a corporation in America that pays their executives, in a lot of cases far more than we are able to pay school teachers in our public schools, that do not spend a substantial amount of money on staff development and continue to upgrade and retrain those professionals on the latest skills. Yet we say to a lot of our teachers in America, you have to be recertified, depending on the State, anywhere from five to six years. You have to have so many hours of training, and you have got to pay for it out of your own pocket.

Industry would not dare do such a thing. We would not do it. They pay for it, and yet we have to do it.

As you are well aware, the first money for that, some of that money came out of the Eisenhower money that was put in the budget back in the late fifties. That money is still important today. It is not enough. States put it in, but I can tell you in a lot of States, when their budgets got tight in the eighties and early nineties, the first dollars pulled out of those budgets, and it was not true in just one State, it was true all across America, because we know here on this floor the Federal Government only puts in between 6 and 7 percent of the dollars that flow down. The bulk of the money is State and local money.

Those were the first dollars pulled out, staff development, the very dollar you need. Once you get it out, I can tell you from being a superintendent, it is the hardest dollar to get back in.

Mr. PALLONE. One of the ironies, you are talking about Johnston County, but when we had the debate two weeks ago on the D.C. appropriations bill, and there was the proposal which actually passed after some strong-arming here to include a voucher system within that for about 2,000 D.C. school kids, and I just thought it was so ironic, because if there is any school system that has greater needs in terms of dollars, for example, for infrastructure, their schools were closed down for three weeks in the beginning at September because the judge ruled they were unsafe and wanted the schools to be fixed up or renovated before they started the school year.

What we as Democrats were saying in that debate is, you know, spend this voucher money, if you will, to better train the teachers, to fix up the schools, to improve academic performance.

One of the things we did the day of the vote is a number of us went down, we did a little march where we went from the Capitol, from the House chamber here, down to a local public school, the one that was very close to here called the Brent School. It was only a few blocks away.

But talk about innovative ideas. Like Johnston County, they are out there trying to improve the public school system in various ways. They have started a very innovative tutoring program, an after-school program that has again brought up not only the grades, but the proficiency, if you will, of the students. So basically now Brent School is a success story for the District of Columbia.

When we went there at the end of our march, we talked to some of the teachers and students. It was amazing to me. First of all, the building looked good. Secondly, I noticed a lot of students were wearing uniforms. I was not able to find out if that was a requirement or whatever, but that was something they were trying that was a little different. Maybe not every school wants to have uniforms, but they were trying it out. And it just sort of upset me to think that here is a public school within the District of Columbia trying to make improvements, having success in various ways. Let us encourage that. Let us try to get more schools within the District to do that, with how many millions of dollars is going to be made available for these school vouchers?

The same thing is true around the country. Your principles that came out of your Democrat Education Task Force, some of them involved spending money, and there will be some Federal dollars available. We know we do not have all the money in the world, and it is still primarily locally controlled, what the schools do. But it just makes no sense, it seems to me, when there are these innovative ideas, when you show in Johnston County what can be done to siphon that money away in the ways proposed two weeks ago, and in another way to be proposed tomorrow by the Republican leadership.

Mr. Speaker, I would yield back my time, and ask that the balance be given to the gentleman from North Carolina [Mr. ETHERIDGE].

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. ETHERIDGE] is recognized for the remainder of the minority leader's hour, approximately 30 minutes.

Mr. ETHERIDGE. Mr. Speaker, let me respond to what the gentleman said about facilities and other things, because this is important. When you think of public schools, public schools are like a small town, they carry on a lot of the services that any town would have and they need to have basic infrastructure for water and sewer of some type. They have got to have maintenance facilities, they teach, they provide discipline and provide instruction. It is a whole multitude of things we require teachers to do and the staff of a school as well as teach.

I am reminded of people who say that the facility does not make any difference, and my friend from New Jersey was just talking about the school here in D.C. and how important it is. If your roof leaks, the first thing you have got to do is patch the roof. It is hard to say to a child, this and that is important, and they look around and find out their building is dirty, the walls need painting, the windows need fixing and the roof needs patching, and they do not perceive that education is important. That is important to fix.

Just last week I was in a brand new school in a school in my district. I went in and read to a kindergarten classroom in Rocky Mount, and in the process of reading, the school is new and it had video throughout the school, and in the process of reading to those students, I knew it was on camera, but I didn't realize, I guess I just got so involved in reading to the children, the kindergartners, I forgot it was going throughout the whole school.

So when we finished the reading of the book, the kindergartners in the class I was in applauded, and the door happened to be open, and apparently the doors to a lot of the school were open, and I could hear applause all over that school.

I tell that story because that is an example of what could happen when you have a school that has modern facilities and conveniences, and the things we talk about every day. And we talk about high-tech and the Internet and faxes and things we move quickly, and yet some of our children go to buildings every day that we would not dare put a business in. But we send children there, because they do not have any choice.

Some communities are growing so fast, they are struggling to make sure they can do it. The question is can the Federal Government do all that? No, absolutely not. But we can say it is important and our taxing policies can support that where we can, and we tried to put some money in this time. The majority would not let it go as part of the bill. I trust before this Congress adjourns, it will get another opportunity to assist in those areas where it is so important, because children do deserve a good environment in which to learn. It improves the qualities. The school ought to be one of the nicest places they attend every day. It was when I was in school, and we should not back up.

I remember, I told a group in a chamber meeting not long ago, if the facilities do not matter, then I would suggest the next time the industrial hunter goes out looking for any major client to come to town and open their business, take them to someplace in town where there is an old, run-down warehouse and say to them, you know, the facility really does not make any difference in the quality of product you are going to put out, so this is the building we are going to try to help you acquire, and see how long it is before that client is out of town and the word gets around, and you will not have an opportunity to recruit very much.

We have a responsibility I think, and I say ''we,'' I think all of us in this country, in the Nation, that has the resources we do, to help. It is a local matter, yes, but all of us working together need to make it happen.

The last time I was in a school, which was just last Friday, I do not remember a single child, as a matter of fact, they didn't, they didn't ask who paid for anything in that school; the books, the TV, the materials they used. Children only know what they get. They do not know what they need. That is our responsibility, and I think Congress can help with that by setting the tone and saying education is important. It is one of the key components we have to deal with in this country.

It is as much, in my opinion, of our national defense in this global economy we find ourselves in, and the economic challenges we face around the world, to be able to compete economically as it is to have strong military, and I very strongly support a strong military to defend our borders.

I think we should not give up on public education. That is where the bulk of our children are. They will be there tomorrow, they will be there next week, next year, and they will be there for time to come, because there is not enough space in any other place for them. And to back away from making sure they have a quality education would be a travesty, in my opinion.

Let me touch on one other point that Mr. PALLONE mentioned in his remarks as he was going through, and he touched on facilities and standards and the whole issue of teacher assistance, teacher support, to be able to make sure that they have the support to do the job.

We need to make sure that we work with our universities in the dollars appropriated from the Federal Government, that they get more involved, as the President has now encouraged the universities to do, roughly 800 of them now, participating in the America Reads program. But we also need them to get involved in our teacher development and in our teacher recertification programs, to provide some of the latest up-to-date resources and research-based information for our teachers to use.

I know at the University of North Carolina, they are now developing a tremendous program on the Internet, and they are using graduate students to do some of the work. The reason I know about it, Mr. PALLONE, my daughter is working in it, and they will have it on line in another year or so, when teachers, when they have access to computers, they can log in, bring down some of the best lesson plans anywhere around, and use those to challenge our students in the way that they never have been challenged before.

□ 1845

It will help that teacher at the point they are working with our children. That is one of the things the President and the Vice President talked about when they are talking about having access to the Internet in every library and in every classroom. Until it is available to the teacher, my view is it will not be used the way it should be. Teachers have to be comfortable with using it, and then it becomes integrated in their instructional materials and the children will use it.

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on what the gentleman mentioned. When we talk about the need to address school infrastructure, whether it is building new school buildings or renovating those that have deteriorated, the gentleman knows we have mentioned before this initiative that was essentially recommended by the President, the $5 billion to help pay the costs of school construction bonds or the interest on school construction bonds, which the Republicans rushed and insisted that it not be part of the balanced budget agreement.

The reason why it was not I think was very unfortunate, but it is still out there, something that the gentleman's task force supports and many of my Democratic colleagues support.

We stressed that money would not be just used for buildings, but could also be used for the Internet, for rewiring, for making improvements so that the Internet or various computers, whatever, could be utilized in schools, because obviously one of the infrastructure needs, as the gentleman mentioned, that a lot of the schools do not have in this country is to address the high-tech problems, wiring, the types of things that make computers and the Internet available. So that is important. That was actually the third point of the gentleman's task force agenda.

But I just wanted to, in the small amount of time that we have left, go into another area which the gentleman mentioned in the task force, the Democratic task force recommendations. That is support for local plans to renew neighborhood public schools.

It sounds like a generic term, but when we break it down, they talked about specific things: Federal assistance for communities committed to renewing their public schools; Federal support for local school renewal plans that are developed and implemented by the community; plans to address such considerations as parental involvement, teacher training, technology enhancement.

A lot of this involves getting the community as a whole involved and at the same time getting individual parents or caretakers involved. That is so important, and it also shows how much the Democratic proposals, if you will, the task force proposals, want to build upon the community and upon parental involvement.

Oftentimes when we talk about addressing education on a Federal level and providing funding on a Federal level, we get accused from our colleagues on the other side of saying, well, you want the Federal Government to control the public schools. It is just the opposite. We want more parental involvement; we want more community involvement. We simply want the dollars to be made available, because we know that is where the crunch is.

A lot of times they do not have the dollars. If the gentleman maybe wants to discuss a little more the types of ways that communities can get involved when they get a small amount of Federal resources, because I think it is so important, I will yield to him for that purpose.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What this was about was a reaffirmation of the fact that schools inherently are community-based. People believe very strongly in their schools.

That is why poll after poll after poll and research and whatever says, I believe in my school, but it is the one down the road that needs changing, or the one down the road ought to have the new program, but I like what I have here. The belief there is that we ought to provide the resources to do it.

Another example, a school I am aware of a number of years ago had very little parent involvement and low test scores, which indicates that, and a lot of other problems, discipline problems.

The principal said, listen, I'm not going to put up with this. It was an area where you would say the school cannot be successful, with a lot of problems in the community, lack of involvement, et cetera. This principal decided, I am going to get them involved. She went to every house and knocked on every door, went to softball games, baseball games during the summer; wherever parents were, this principal went.

It was a long story. Parental involvement, the PTA went from something like 10 percent to 80 percent. School scores went up dramatically; dropout rates went down. That is what we are trying to get to, is to be able to provide a resource. All this school needed was one person. One parent came and volunteered. Pretty soon they were not able to volunteer and they needed more help, so they were able to scrounge up enough money to pay a half-time person to coordinate the parents.

These kinds of things make all the difference in the world: Just a few resources at the point of the school to reach out and bring them in and you have changed lives forever and the opportunities are tremendous.

If we take that and allow a child to progress through school, and follow through with what we did this time, in putting $35 billion available for education beyond high school, we have changed this country forever, too, when we allow more and more young people to get a college education.

But we have to get them started on the right track, get them to read, get them stronger in math, give them that foundation, get the parents involved, let them understand they can dream the American dream and they can achieve it.

Mr. PALLONE. Mr. Speaker, the other point that the gentleman made in his agenda, and again, his task force agenda, the Democratic task force agenda, was about efficient and coordinated use of resources. There was a very important point incorporated under that rubric which says, coordinate the services for children and families through local consortiums of education and social service providers.

What I find in my congressional district, and I am sure this is true in many parts of the country, is that many times the school districts are too small. If they want to provide certain types of services, or address certain educational needs, they need to get together with other local school districts. A small amount of Federal dollars would help a great deal in that, as well.

Just to give an idea, in my home county, Monmouth County, over the years they have tried to get the schools together on a county level to set up various schools that address particular needs. For example, we have a MAST program, M-A-S-T, which is the Marine Academy of Science and Technology. Students from the various county schools can enroll there. The county set it up at one location along the shore, actually, in my district, where they had basically marine and science programs for 4 years.

The students have to participate in like a naval training program, similar to the Navy officer reserves, but this is on a high school level. There is a physical element. I do not know if I would call it a military element, but there is

a physical element to it. But then they spend their time dealing with marine resources, specialty courses on oceanography and various aspects of marine resources. There are similar schools that have been set up on a county level for other purposes like that, whether it is sciences, or there is talk now with regard to arts programs.

I think the schools individually could not do that, but if they get together with some kind of consortium either through the county, the State or whatever, then they can set up something like that. Then again, that is the innovative idea. It is public. These are public school dollars that are being used to set up specialty type schools. I know this type of thing is a very important part of the gentleman's agenda, as well.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What that does is open up for young people. We want them to be well-grounded in the basic foundation, but children learn a whole lot more earlier than we can have any idea, and have interests. That is how we get our astronauts, how we get our scientists.

With schools working together in consortia, or really outside the school, with various groups, there may be resources in the community they can pull in. Many schools are doing that in some areas, but they are doing it where they have substantial business interests who are putting the dollars in. But in some areas where those resources are lacking in terms of the tax base of the community or the school, and they do not have the business support because it is virtually nonexistent, then those children deserve the same opportunity. They deserve the same opportunity. They are just as talented.

I would venture to say if we take a sampling or checked every Member who serves in this United States Congress and in the Senate, we are going to find a lot of people serving in this body that came from Small Town, U.S.A. There are a lot of children today out in rural areas in Small Town, U.S.A., who can make major contributions if we give them that opportunity.

That is what the consortia is about, allow them to work together, because they do not have the money. They may not have the resources for all the Internet pieces they need. They may want to have a math high school. That is available in a lot of places and it works.

Mr. PALLONE. Mr. Speaker, the other thing, too, when we talk about innovative programs like that where we get schools together on a county level or whatever to do something innovative, it is often difficult to get the local board of education to contribute dollars to something like that because they are locally based, and they figure it is taking it away, and so on. So that is a perfect example of where the Federal dollars become very attractive, and become a tool to provide excellence and to improve and provide more opportunities for public education.

Mr. ETHERIDGE. If the gentleman will continue to yield, Mr. Speaker, it is a lot like the farmer that seeded the ground and put some water on, because that local board, in many cases those dollars are allocated. It gets back to the issue you raised earlier as it relates to vouchers. It is not like taking new money. We are taking money away from the students who were out there, whether they be in the poorest community, the wealthiest suburban community, and the rural community. Ultimately, all children have less money, because you are funding a source that was not there before, because we have a lot of children who are not in the public schools.

That is their choice. I will say today that I will fight for their right to have that choice, but I will not support their right to take tax money and make that choice, because I do not think it is in the interests of all of our children. I do not think that is ever what was designed or intended when we talk about public education in this country. It is not taking public dollars and carrying it for private support.

Mr. PALLONE. The point is, we like to provide more alternatives, more choices, as the gentleman stated, but within the context of public education. We do not want the dollars taken away from public education. If we want to use the money to start some innovative programs at the existing schools, or to send kids in some sort of consortium, that is fine.

I know there have been a lot of experiments within, say, one school district, say it is a city and there are many elementary schools, in providing parents choices within the public school system. They can go to one school or another. But that is public dollars. That is still public education. There is a big difference between that and a voucher program that takes those dollars and uses it for private education.

Mr. ETHERIDGE. Absolutely. I get a little frustrated at times, people talk about how schools have too much money, and some will say that. I do not know where they get that information.

I would say to them, anyone who feels schools have more money than they need, go talk to those PTA presidents, those PTA moms and dads who are out there selling candy and selling subscriptions to books and working at ball games in the evening, and taking the money from the concession and buying things schools need, that their children need.

That happens all across America. It is not restricted to urban areas, and not restricted to suburban areas, and it is certainly not restricted to rural areas. It is all across the country. Because that to me is the fact that parents want what is best for their children, and they are willing to go the extra mile to make sure that their children get that opportunity. When they do it and they spend those dollars and that time, it is not selfishly, for just their child, it is for all those children in that public school.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the gentleman again for his participation. I think this is what we have to do, exactly what the gentleman has done, which is to show how in various districts around the country efforts have been made to improve the public schools, whether it is basic skills or some of the other things we discussed tonight, and that is the direction in which this Congress and this House of Representatives should be going, clearly, not in the direction of taking the resources away for vouchers or other types of plans.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from New Jersey. He is absolutely right, that this country is what it is today because we have been able to stand on the shoulders of those who have given so much for so long in our public schools, under some very tough situations.

I am very happy tonight to be part of showing some success stories. I hope we will be about that in this body on both sides of the aisle, talking about the successes of our teachers and children, because if we criticize our schools, we are criticizing our children and teachers. I hope I am never guilty of that. I thank the gentleman for helping organize this.

THE WAR ON DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. Pappas) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAPPAS. Mr. Speaker, the war on drugs is just that, a war. What I and a number of our colleagues will be talking about over the next 60 minutes or so is the war on drugs.

□ 1900

In my opinion, there are few issues that are facing the people of our country as important as that. And this dialogue that we are going to be having tonight is really a continuation of what has been going on around the country for many years now; unfortunately, many decades.

Mr. Speaker, each of us represents approximately 600,000 people in this House and unfortunately what had been a problem in maybe just certain urban settings 20, 30 years ago has now spread throughout suburbia and even into the rural areas of our country.

Each of us here took the oath of office to serve the people that elected us and the majority of the issues that we deal with seem to be about national defense, about our balanced budget plan, about providing for tax relief for the people of our country. Yet there is a generation that is growing up that is facing, in my opinion, a very uncertain future because of the drug culture that is so rampant throughout our communities.

Mr. Speaker, I want us to focus on a couple of things here tonight, something that we have debated here in this Chamber just recently, and that is what should our goal be? Is it, in fact, realistic to try to see our young people focus on something else other than drugs?

Mr. Speaker, the gentleman from Illinois [Mr. HASTERT] has asked us to focus upon a goal: Reducing the usage of drugs by teenagers from 6 percent to 2 percent by the year 2001.

Unfortunately, there were some Members in this Chamber just a few days ago that spoke about that as being unrealistic, one that was, as I understand their statements, meant to set the national drug czar's office up for failure. I know that that was not the intent. I think it was to set a goal that is important that we focus upon to try to see that become a reality.

In my district in central New Jersey, I have undertaken certain initiatives to try to speak out about this, use the small bully pulpit that I have been fortunate enough to have to challenge the young people of my district, and here challenge the young people throughout our country, to enter a poster in an essay contest. I wrote to each of the principals of the schools throughout the 67 towns in my district, and I asked them if they would give the young people in their schools an opportunity to participate. The theme is this: ''What I can say yes to instead of drugs?''

We all know that back in the 1980s when Ronald Reagan was President, the First Lady, Nancy Reagan, undertook a ''Just Say No to Drugs'' campaign, and some were critical or somewhat cynical of that rather simple message, but it was very successful. This I would like to think is the next step, trying to focus on a positive aspect of the future possibilities that face our young people.

I believe that we as Members of Congress need to do whatever we can to focus our constituencies' attention to challenge not just people in education that are very dedicated to try to see young people get a good education, but to challenge people from all walks of life that we all have a stake in this.

Mr. Speaker, I want to just mention a few statistics. I see I am joined by my colleague from Tennessee [Mr. WAMP], who I would like to yield to in a moment, but first I will list some statistics that were very sobering. This was from a report from Columbia University. They conducted a study that states 41 percent of high school students say they can get drugs easier in schools than on the streets. By the time the average teenager reaches the age of 17, 68 percent can buy marijuana within one day; 62 percent have friends who use marijuana; 58 percent have personally been solicited to buy marijuana; 43 percent personally know someone with a serious drug problem; 42 percent say that they can buy marijuana easier than beer and cigarettes.

That means youngsters throughout our country can purchase a banned, illegal and dangerous substance easier than they can purchase something freely that is sold in a store or any market. That should cause us all to be very concerned.

The efforts that I have described, this drug and poster contest, some people may make light of it, but based on the initial reaction that we have gotten just the other day, in fact, Congressman HASTERT and I held a hearing in Freehold Borough High School, which is the county seat in one of the counties that I represent. The gentleman from Illinois has been going all around the country holding these hearings to hear from the people on the front lines, the educators, people in law enforcement, people who are from community-based organization or religious institutions who are dealing with people struggling with this most important problem and hearing from them; hearing about local solutions to a national problem.

Mr. Speaker, that is something as someone who has served as a town council member, as a mayor, as a member of my town governing body, I am a great believer in local solutions to national problems. I believe that some of the most innovative ideas come from people in our communities and not from here in Washington, D.C., and not to be critical of our State governments, but maybe not even our State capitals, but from our communities, from our places of worship, and from our students.

We even had four schools participate in this hearing. Eight students wanted to speak, ask questions, or just express their positions, and I will get into that a little bit later.

Now, Mr. Speaker, I want to yield to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Speaker, I thank the gentleman from New Jersey for yielding, and commend him and the gentleman from Texas and the gentleman from Arkansas and the gentleman from Colorado and the gentleman from Pennsylvania for spending this time to focus on this issue. To the gentleman from New Jersey I will say they are on the way, there will be several speaking because this issue does not receive enough airtime in America today, this issue of drug and alcohol abuse.

This is an interesting fall, Mr. Speaker, because on the heels of an unprecedented bipartisan agreement to balance the Federal budget between the President and the Congress, the sea of public opinion is relatively calm. As a matter of fact, we heard two weeks ago national bipartisan surveys that indicated that there were no real issues that jumped off the page in surveys in the double digits when asked: What is the number one problem in America? Three issues were at 9 percent, but for the first time in many years the economy is good and people are relatively comfortable, so the sea of public opinion is relatively calm.

But let me say this, Mr. Speaker. I believe that what lurks underneath that calm sea of public opinion today is extremely dangerous and we need to spend some time focusing on it and we need to raise the awareness of the American people, because as we face the turn of this great American century into what I hope and pray is another great American century, the 21st century, we need to recognize that the grandchildren of the baby boomers are becoming teenagers.

I served, Mr. Speaker, on the Bipartisan Task Force, and the gentleman from New Jersey spoke of the work of the gentleman from Illinois [Mr. HASTERT]. The gentleman from New York [Mr. RANGEL] and the gentleman from Illinois [Mr. HASTERT] cochair a bipartisan working group here in the Congress on drug and alcohol abuse. We had a briefing a few months ago from Louis Freeh, the head of the FBI, who talked about numbers of teenagers. Because while violent crime and drug abuse is on the decline among grown people, it is on the increase among our teenagers and herein lies the problem.

We are on a collision course through the turn of the century. More and more teenagers, as a matter of fact, the bell curve in 2005 is the highest concentration of teenagers that we have had in the history of our country, we are told, more teenagers as a percent of our population than we have ever had. That is wonderful in a sense. It is the grandchildren of the baby boomers. But when suicide, violent crime and drug abuse is on the incline, and the number of teenagers is on the incline, and families are breaking down at unprecedented rates, it is a recipe for disaster and we must once again as a Nation come together at every level and recognize what this problem really is.

Mr. Speaker, we are told the common denominator of violent crime among teenagers in America, the most common denominator is fatherlessness. People without fathers as they are growing up have a much higher propensity to commit a violent crime. The number two common denominator is alcohol abuse. Drug and alcohol abuse is destroying our country.

Now, I know today things are relatively comfortable and many people might not recognize that, but it is true and we must address it. Drug and alcohol abuse is the manifestation of a hopelessness that is now an epidemic in this country, and what we need as we approach this next great American century is a zero tolerance policy at every level of our society on drug and alcohol abuse.

Mr. Speaker, I use the two together because many people talk about drug abuse and they overlook the fact that alcohol abuse is even more prevalent in our society than drug abuse. It is the number two common denominator of violent crime in our country and violent crime is going to be an even greater problem as we turn this century than it is today.

Now, what do we need to do about it? We need a balanced approach on substance abuse between prevention,

treatment, and interdiction. Today, if my memory serves me correctly, we spend about $16 billion through the Federal Government fighting the drug war. About 20 percent of that money is spent on interdiction and, frankly, that is where we can actually document the most success at fighting the war on drugs, through interdiction.

The military is doing an excellent job. There are four supply countries. We actually now do a better job of intercepting drugs from those supply countries than we have ever done. The transit zone in Central America, we have really restricted the transit of illegal drugs into this country. But we are only spending 20 percent of our gross resources on interdiction, yet that is where the most success actually is today. We need to spend more money and help our military fight the international war on drugs. I really believe that.

We are spending a lot of money on prevention, and I think there are ways by block granting we can spend it more effectively. A lot of money is being spent on prevention. Prevention really starts at home. If we leave it up to the government to stop substance abuse, and we overlook the importance of the home, as Ronald Reagan used to say, the most important decisions in America are not made in Washington, D.C.; they are made around the dinner table of American families. Is that not true?

Treatment is an interesting piece of this, because I believe that treatment should be available in this country to anyone who wants it who has a substance abuse problem. But I can also say that I believe treatment works for people who want treatment, and treatment does not work for people who do not want treatment. That sounds obvious, but we are actually spending a lot of money providing treatment to people who do not even want to get better and, therefore, it is not successful.

Mr. Speaker, we need a balanced approach on all three aspects of fighting a real war on substance abuse, I would say to the gentleman from New Jersey. Not just a war of words, but a real attack on this.

Mr. Speaker, we need cooperation from the mayors who actually do not need to be lectured by those of us in Congress. They need our help. The district attorneys need our help. We need the administration, the Presidential administration to cooperate. And the Congress needs to get more serious about this issue as we approach the turn of the century than we have ever been.

We need to recognize this is a national crisis. It is ripping apart the fiber of our society, drug and alcohol abuse, and it is going to take a team effort to fight it. The gentleman from New York [Mr. RANGEL], who serves as the distinguished cochairman of our task force, he actually has said at several meetings that he did not really appreciate Nancy Reagan when she was First Lady, but he misses her now and he said, at least then, somebody was saying that it was important to just say no to drugs. Now, we do not have that focus, and there is something about all of us leading by example and hammering away at this issue that this is a national crisis, drug and alcohol abuse.

It is going to take a team effort. We need to get underway. I appreciate this night being a start and a step in the right direction. I commend the Members of this freshman class for bringing this issue to the floor, and I thank you.

Mr. Speaker, I yield back to my friend the gentleman from New Jersey.

Mr. PAPPAS. Mr. Speaker, I thank my friend. I hope that Mrs. Reagan is watching. And if not, we will have to see that she gets a copy of this to pay tribute to her dedication to this effort. It is one that is so important.

Mr. Speaker, just earlier this month I introduced a resolution, House Resolution 267. It is a Sense of the Congress Resolution, and it basically states and encourages citizens of our country to remain committed to do whatever we can to combat the distribution, sale, and illegal use of drugs to our Nation's youth and by our Nation's youth.

□ 1915

For those of my colleagues who are here who have yet to become cosponsors of this particular resolution, I certainly would encourage them to do so.

Now, Mr. Speaker, I would like to yield to another member of our freshman class, my friend, the gentleman from Texas [Mr. SESSIONS].

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

I am glad to be here today because the problem of drugs in our country is dire and urgent. There is a moral crisis in America.

I want to use some of the data published in a report by the House Subcommittee on National Security, International Affairs and Criminal Justice to illustrate just how bad this moral crisis is.

The report entitled, National Drug Policy: A Review of the Status of the Drug War, details the startling use and rise of drug use among Americans, all Americans, but most especially those that are young Americans.

According to the 1994 Michigan University study, 13 percent of eighth graders experimented with marijuana in 1993. That is almost twice the 1991 level. Experimentation among 10th graders increased about two-thirds the previous 3 years. And daily use among high school seniors was up by half over the 1993 levels. Increasing use was also reported in 1994, by the Drug Abuse Warning Network Data, which collected data from emergency rooms around the country on drug-related emergencies in 1993. That data showed an 8 percent increase in drug-related emergency room cases between 1992 and 1993, 45 percent of which were heroin overdoses. Cocaine was also at an alltime high, having almost doubled since 1988, and marijuana emergencies increased 22 percent between 1992 and 1993.

1995 data is even worse. The National Household Survey, released in September 1995, shows that overall drug use among kids, ages 12 to 17, jumped 50 percent in 1994, from 6.6 to 9.5 percent. The National Pride Survey of 200,000 students shows that one in three American high school seniors now smokes marijuana. There has been a 36-percent increase in cocaine use among students in grades 9 through 12, from 1991 to 1992, and hallucinogen use by high schoolers has risen 75 percent since 1988 and 1989.

Finally, October 1995 DAWN data says that in 1994, cocaine-related episodes reached their highest level in history and registered a 15 percent increase from 1993, and a 40 percent increase from 1988.

On top of this, marijuana or hashish-related emergencies rose 39 percent from 1993 to 1994. And total drug-related emergency room cases rose 10 percent between 1993 and 1994.

The reason we are here today is to call on all Americans to join in this fight against drugs. As we know, this is Red Ribbon Week across America. That is what those red ribbons are there for. That is why we are calling on Americans now to join with us at this time to fight drugs.

But parents can also start by demanding that their children and the schools that they attend, that they learn to be drug free. The fight against drugs must be waged in churches, schools and by every family in America. Kids should report drug dealers to their teachers, and parents and teachers need to do what they know is right by leading by example and doing the right thing. And that is by saying, no. I also wish adults had the courage to do the same thing.

Currently, there is also a drug that has taken hold in neighborhoods throughout America, and this is wreaking havoc. This drug is called methamphetamine or it is called speed, crank or crystal. If there is a drug that enslaves the mind and destroys the soul, this is it.

According to a report by the Drug Enforcement Administration, and I quote, the extreme agitation and paranoia associated with the use of methamphetamine often leads to situations where violence is more likely to occur. Chronic use of methamphetamine can cause delusions and auditory hallucinations that precipitate violent behavior or responses. End of quote.

This is a violent drug that devastates the user. DEA Administrator Constantine, in a statement, attested to the horror of this drug, when he said, and I quote, during the summer in New Mexico a father, while high on methamphetamine, beheaded his 14-year-old son. Administrator Constantine also described how a mother and 3 young children under 5 were recently seriously burned when a meth lab exploded

causing a fire in their home. Two of the children were rushed to the hospital in critical condition and one died. The responsible father fled the scene, abandoning his critically injured family before rescue teams arrived to assist them.

Methamphetamine, just like other drugs, is a cancer on our society. In 1994, there were over 700 methamphetamine-related deaths in the United States. In several cities, meth-related deaths are up over 50 percent in the last three years. And in 1995 alone, the DEA seized 241 methamphetamine laboratories.

Methamphetamine is easier to manufacture in the United States because its precursor chemicals are more readily available. If the penalties for the manufacture of this killer drug do not deter its production within our borders, how are we going to stop its rising use? I think we should make punishment more severe so that we push it out of America's cities and towns.

It is important to note that the danger from those chemicals used in the manufacture of methamphetamine is immense. They are highly flammable and explosive and can cause extensive damage to first responders, including law enforcement, firefighters and civilians, as well as devastation to our environment.

We must give law enforcement the tools to deal with this epidemic efficiently by getting those drug thugs off our streets. I believe that those involved in the manufacture and distribution of methamphetamine should spend the rest of their lives in prison. I have drafted a bill to do just that, the Speed Manufacturing Life in Prison Act of 1997.

This legislation will help stem the rise in methamphetamine production by giving those involved in the manufacture and distribution of methamphetamine a mandatory sentence of life in prison.

This is just one way to address the problem of drugs in our society. Unfortunately, in Washington, there are many who cannot even agree how to address the problem.

According to the General Accounting Office, the bipartisan watchdog agency of the Federal Government, the current drug policy under the leadership of the Office of National Drug Control Policy is not clear. It is not coordinated. It is not comprehensive, and it is not consistent.

It is no wonder we are here tonight calling on the families and communities of America to help us solve this problem. To save our children we will have to all work together and, if we do that, we can ensure that the lives of our children are safer, more productive and free of the drugs that can cripple the mind and destroy the soul.

I want to thank the gentleman for being here tonight. I want to thank my good friend from New Jersey for allowing me the opportunity to speak on this important subject tonight.

Mr. PAPPAS. Mr. Speaker, I thank my friend from Texas for his participation. We have spoken about this, and I commend him for the leadership that he has shown and the legislation that I think I am an original cosponsor of.

Mr. SESSIONS. You are.

Mr. PAPPAS. We have spoken about a number of specific areas of the country and a number of drugs in particular that people are abusing. I know we have spoken about heroin. I know you have some thoughts. I am wondering if you would share that.

Mr. SESSIONS. Yes. We have a terrible problem in Texas. Just outside of Dallas, in a neighboring community, we have had a minimum of eight heroin-related deaths by teenagers in the last year. Of course, this is causing a lot of inward thought to the community. And I want you to know that every single time those parents say, please talk about the problem, please tell the story, because many of them did not even recognize that their children were even on drugs. So this is why I think this is important. I thank you for bringing that up.

Mr. PAPPAS. I thank you very much.

We are joined by yet another member of our class, my friend from Arkansas. I would like to yield to the gentleman from Arkansas in a moment.

Before I do that, I know that we all have heard an awful lot about those in our society that think that the answer is to legalize certain drugs and that that will unclog our court system. And I disagree.

Just last week I met with a group of police chiefs from one of my counties in the district, Hunterdon County. When I concluded my remarks and I just made my last pitch, so to speak, to indicate that my door is always open to them and I hope that they do not feel that they cannot offer a suggestion or a viewpoint, if it is unsolicited, one of the comments that one of the gentlemen made was that a response that some have to our drug epidemic of legalization is not the answer, sending the exact wrong signal.

I know that the gentleman from Arkansas, my friend, who is here joining us has had a very distinguished career in many capacities. Certainly, I am glad to see him here tonight, certainly glad to serve with him in this House.

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from New Jersey. I am grateful that he has taken the leadership in addressing this very important subject. Hopefully, by our discussion, we can center some legislative activity but, most importantly, some momentum in our country to reinforce and reinvigorate the war against drugs.

I approach this subject as a former Federal prosecutor, serving in the Reagan Administration as United States Attorney, but more importantly, I approach this subject as a parent. I have raised three teenagers. I have another one coming. I know the struggles that parents go through in dealing with this very, very tough issue, because it truly affects all families.

I think back during the 1980s, when I was a United States Attorney and my wife Susan was involved in ''Just Say No'' clubs, starting them in the schools, encouraging young people to think about their decision and their commitment in regard to drugs.

This last week I had a very interesting experience. I serve on the House Committee on the Judiciary on the Subcommittee on Crime. We had a hearing in the Subcommittee on Crime in which we had a witness who we called Mr. Rodriguez, which is not his real name, but he assumed that name to protect his identity. He further protected himself by coming to testify before Congress with a hood over his face to protect him further. And he was from New York City. He was in prison. He had pled guilty to drug trafficking.

He was the number two person in the New York City branch of the Medellin drug cartel out of Colombia. So he is about as high as one can get in that drug structure in New York City.

He testified about the drug federation, the Medellin federation. He testified as to his experience, the organization, trying to shed some light on what Congress can do, on what our country can do as we fight this devastating disease called drugs.

As he testified, he talked about his organization which outmans and outguns law enforcement agencies on both sides of the border, both in Colombia and here, an organization that resorts to bribery, to kidnapping, to intimidation and murder to protect their trade and profits.

He described the organizational structure in which we could see it, just like any organizational chart, the Medellin federation has consultants, financial and tax, administrative, legal, political, media. They have their operations for payments and deliveries, their security, their international operations for their shipments, their New York City branch. They have their distribution outlet, their deliveries, their warehouses and so on.

□ 1930

It is an organization that is as sophisticated as any business organization in America. But what is of interest, I believe, as I talked to him, I asked him four common sense questions that I think a lot of people in America would ask someone in that position in the drug trade.

The first question I asked him was, how would he compare the resources of the drug organizations to the resources of law enforcement here in the United States? And I asked this same question in a previous hearing to the head of the FBI, the head of the Drug Enforcement Administration, and I got the same answer out of both. And the answer was, for Mr. Rodriguez, that he saw the resources tilting a little bit more on the

side of the drug federation, the drug cartel, and the drug organization.

This flabbergasts me, that in a country as large as the United States we are outgunned, we are outmanned, and they have more resources on the opposite side. The point of that question and answer is that we have to have a commitment of resources, yes enormous resources, in this country to win this war.

The next question I asked him was, what is the greatest weapon that drug dealers fear that law enforcement has? And the answer surprised me. His answer was extradition. And, of course, he is speaking as someone who was from Colombia that is in New York City, and from the Colombia perspective, the worst thing that could happen is that a drug dealer was extradited to the United States.

I asked him to elaborate on that. He said they cannot fix the system in the United States. That is what we have going for us, is the integrity of our justice system. We can never let our prosecutors, our judges be attacked, our system be attacked, and get in the hands through bribery, through intimidation, of these drug dealers, as it has in other countries in South America and in Mexico.

And then I asked him the question, the third question, does he and his other drug dealers use cocaine or other illegal drugs? And his answer was no, of course not, it is bad for business. And a drug dealer has the understanding, the sophistication, to know how dangerous drugs are. And if they understand it, our young people certainly must get that message very clearly.

Then the final question I asked him was, what advice would he, as a person who is waiting prison time, what advice would he give a young person who is confronted by a drug dealer? And his answer was, as he stood there in prison garb with a hooded mask over his face, he said, look at me, do you want to wind up where I am? I hope our young people can think seriously and the parents can think seriously about the end result of drug dealing, of using drugs.

But he did indicate that we are making progress. The encouraging word, the sophistication of law enforcement in dealing with money laundering, in financial transactions is really making it tough on the drug dealers. So we are making some progress.

I see when I look at the drug problems, not just statistics but life stories, and when I was a United States attorney we looked at New York City as a far off territory, but I can cite numerous instances in which the drugs went straight from Colombia to New York City and straight from New York City to my State of Arkansas and then into the hands of teenagers. It was 98 percent pure cocaine. And with that level of not being diluted, it was straight from Colombia through New York City. What happens in New York City, what happens in Chicago, what happens in Dallas affects us in the rural areas. So this hooded witness impacts us all.

And then I think about that young teenager who went to a high school in Arkansas, who never used drugs, who spoke against drugs in high school, and went to a college campus and in a short amount of time was free-basing cocaine. Why do I tell that story? It is because this could happen to anyone, and we have to clean up our high schools, we have to clean up our campuses, and we have to have an ever vigilant society in this dangerous situation.

How do we win the war on drugs? It is commitment, commitment of resources, and then I think just as importantly, it is consistency. We were starting to make progress and win the war in the late 1980's and early 1990's and then we changed direction in 1992. And as soon as we did that, the teenage use of drugs went up. Marijuana, experimentation with cocaine went up and we started losing. We did not have the resources. Now we are starting to get back there, but we cannot change our commitment and the consistency we have to fighting this drug war.

I know I have taken a little bit longer than I intended to. I thank the gentleman from New Jersey. I commend him for this. There is not a more important subject that we deal with in the United States Congress. But we have to put the resources in it, and the answer comes from every family, every community, every city in America who must take the bull by the horns and deal with this important issue.

Mr. PAPPAS. Mr. Speaker, I thank my friend, and before he leaves, I want to compliment him not just on his statements here tonight, but also I can recall the early part of this year, I think the gentleman was one of the first members of our class that said we need to talk about this, and I am glad he is here and I hope we will continue to do this.

Mr. Speaker, as a Member from central New Jersey, I frequently get visits from students in my district. It is about a 4-hour drive by car or bus, and I have been amazed at the number of students that have visited me here. But while I am home in New Jersey, I spend an awful lot of time visiting schools and speaking to students, all age categories, and I try to challenge them and ask them the question, where do they see themselves in 5 years, in 10 years, in 15 years, and try to make them realize that the choices they make now in grammar school, in middle school, and high school have a tremendous effect upon where they are going to be 5, 10, 15 years from now. We all need to challenge them.

We are joined now by another distinguished member of our class, and I would like now to yield to my friend from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Speaker, I wish to thank the gentleman from New Jersey for running this hour for this message. It is one that I really get fired up about. I remember harking back to even the campaign days when this issue would come up, it stirs emotions in many of us, and my perspective comes from, I guess, the different jobs that I have held before coming to this floor, one being that of a military officer.

We have done ourselves a great disservice by calling this a war on drugs, because we have never significantly started a campaign. We have not identified the resources. We have not focused the attention. We have not really, unfortunately, decided to fight a war on drugs. We like to use the verbiage, and I am aghast at it. So I wish we would get that out of our lexicon until we are ready to do it, until we are ready to fight the war on drugs.

I think three things have to be done, and I think we are taking some steps in the right direction, but I do not want skirmishes, I want a war on drugs. I want to drive it from the land.

A couple of things. We need to, as we did this year in the House, we need to say let us put military forces on the border and stop drugs coming across the country's border. And on the House floor we said let us put 10,000 troops there because this is a serious conflict that we are in and we need a serious commitment. So we have to do everything in our power to stop the importation of drugs from outside the Continental United States.

Second thing is, and my colleague from Arkansas has had great experience, we have to punish the drug pushers. We need to identify them, which we can. They are on the streets. We need to arrest them. We need to lock them up. They need to be breaking rocks. They need to be sweeping streets. They need to be chained up so that they are an example. There is an example, when kids see a chain gang sweeping the streets of drug pushers. So if they do the crime, they do the time. And, of course, we have a judicial system that does not support that.

The third thing is we just need to look at ourselves. And I am going to say shame on my colleagues who used drugs in high school that are still abusing drugs as adults. And I am going to say shame on the entertainment industry who glorifies the use of drugs. And I am going to say shame on the professional athletes who glorify drugs or abuse drugs. Because what this is all about is our children, and they are looking at the folks in the entertainment industry, they are looking at their parents, they are looking at sports leaders and idols, idolizing them, wanting to be like them. But we have adult leadership in our Nation, adult idols, and I hate to use the word ''adult'' because they are still caught in a juvenile world that thinks drug use is cool, and so we have to get that message out.

An ounce of prevention is worth a pound of cure. We need to work on preventing the first use by children of drugs. We can stop it at the border if we commit ourselves, we can arrest the

pushers if we commit ourselves, but if we do not educate the children to make good choices, then those others are for naught.

As a former teacher, as a West Point graduate, we lead by example. Children are crying out for leadership. They are crying out for good examples. And we as a society continue to fail our most vulnerable, which are our children.

Our message is simple: Nancy Reagan was right. Just say no. The current administration is wrong when they laugh about it and they send the wrong message. We need to take the moral high ground. We need to talk to our kids. We need to plead with them. We need to lead by example. We need to just say no. If we truly love our children, we will tell them just say no. We will spend time with them and we will work with them.

And to the gentleman from New Jersey, I again thank him for this opportunity. It helps air out some major concerns that I have that I do not get to address many times in some of the other forums.

One of these days, and I just hope we get serious and that we will move in the right direction. As I see so often in this body, we really have no national policy on specific issues. We pick here and we pick there and there is no coordination. I would ask the drug czar to be a little bit more coordinating in these efforts.

Mr. PAPPAS. I thank the gentleman from Illinois, and knowing of his family and seeing him with his boys here sometimes on the floor of the House, I know what he has said is heartfelt.

Mr. Speaker, Monday, when we had that hearing back in my district in Freehold Borough High School, I mentioned that there were some students from three or four different schools in my district. One of them was the Manalapan Township High School, and there were eight students interested in coming forward and speaking their minds, and I would like to mention a couple of the things they said, because it really bears repeating.

Several of them said that we need to put more emphasis on stopping drugs from coming across the border, north or south. Many of them mentioned that in their opinion the education system does not solve anything; that there needs to be more younger people closer to their age to speak to them about why doing drugs is not going to do anything for them in their future.

Some view that the discipline that they are given is not very good. One of the students spoke that there is a smoking area outside of the school where some of the students congregate to smoke and a teacher or guard gives them some sort of a detention slip as punishment, and that they believe, the students believe, that more needs to be done to prevent even kids from smoking, which I believe is illegal for minors.

I will speak about some of their other suggestions a little bit later, but now we are joined by my good friend, the gentleman from Colorado, Mr. BOB SCHAFFER, and I would like to yield to him.

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Mr. BOB SCHAFFER of Colorado. I thank the gentleman from New Jersey for yielding and commend him for bringing this topic to the floor and allowing us to share a little bit tonight with each other and with the American people about an issue that is so crucial to the future of our country. I am a parent of 4 children. What I bring with me here to Washington is my hopes and dreams and aspirations for my children and all children just like them throughout the country. Tonight we have focused quite a lot on the drug abuse problem and juveniles and what our hopes are for children in America and I want to talk about that and what we can do as conservatives and as Republicans here in this Congress and focus for a moment, if you will, on some of the programs that exist. But again with the underlying thought being, what is it that we can best do to safeguard the future for our children in a positive and constructive way?

Mr. Speaker, government programs are nice. In fact some even work. But when it comes to improving the general virtue of American children, few things matter more than fathers, faith and fortune. Sure, there are examples of public programs that have turned around the lives of youngsters, stood in where families were nonexistent or provided support where it was needed most. Virtually every social worker and counselor I have ever met genuinely cares about the youth they serve and are dedicated to straightening out juvenile lives.

However, after 10 years in public service as a Colorado State Senator and a United States Congressman, I have come to the frank conclusion that too many government programs aimed at helping wayward youths fall far short of achieving their noble goals. The anecdotal stories of adolescents rescued from their troubled settings are regarded by grant writers and politicians to be all that is necessary to justify heftier appropriations from public coffers. Yet what public officials frequently fail to consider are the untold millions of young Americans robbed of economic opportunity by the mammoth bureaucracies inevitably created by an expanding welfare state.

Always I ask how much a juvenile program spends per successful case. The calculation more often than not is dismaying. More vexing is the frequency of the worn retort, ''But, Congressman, if it helps only one child, isn't that worth it?'' When will we ever wake up and realize that our government spends too much on a welfare state that hurts children by making bureaucrats the gatekeepers of prosperity? The national debt has soared as a direct result of unbridled spending jeopardizing not only present income, but the future incomes of many generations. A child born today owes $20,000 as his share of the present debt. Over the course of his working life, the interest on that debt will amount to $200,000. For every child in America, this means less money for their education, less money for their insurance, less money for their college education and instead of capital to draw on to build their families and fortunes, heavy taxes to pay off the debt. No new Federal youth program no matter how ingenious can replace the security of these essential items of self-sufficiency. With such tall odds is it any wonder that today's youngsters feel disconnected from society, lose hope, experience great anxiety, and rebel against the rest of us?

Worse yet, the common family feels powerless to offer answers. In 1950 the median family of 4 paid just 3 percent of its income to the Federal Government in taxes. Today that figure has risen to 24 percent. When State and local taxes are thrown in, the typical family of 4 now pays 40 percent of its income in taxes to the government. The results of this disastrous policy are only too apparent. Even as its punitive tax policy discourages child rearing by traditional middle class families, the Federal Government continues to subsidize illegitimacy and broken homes. By placing crippling financial burdens on two-parent families, our government is essentially engineering social collapse. One need only consider the current juvenile crime statistics. Teenagers account for the largest portion of all violent crime in America. In 1995, those under the age of 18 were responsible for almost 2 million violent crimes, more than one-fifth of all violent crime. It is reasonable to ask, where are their parents? While marriage and the stable two-parent family remain the most essential and central social unit in America, outrageous rates of divorce and out-of-wedlock births are destroying this crucial institution and weakening the development of the next generation. More and more children must grow up with little guidance from a parent who loves them. Youth violence is dominated by boys. More murder and robbery is committed by 18-year-old males than any other group. Research tells us the likelihood that a young male will engage in criminal activity doubles if he is raised without a father and triples if he lives in a neighborhood with high concentrations of single-parent families. 72 percent of adolescent murderers grew up without fathers and 60 percent of America's rapists grew up in homes without fathers.

On the other hand, children living with both biological parents are up to 4 times less likely than other children to have been expelled or suspended from school. The tax burden on families with children has raised the cost of having children and forced many couples to endure a tradeoff between time at home and time spent at work earning money to support the family. The

tax system no longer helps families raising young children. Rather than defend the family and encourage marriage, the Tax Code does just the opposite. That is primarily due to the erosion of the personal exemption by inflation and steep increases in payroll taxes.

Simply put, children need fathers. They need parents at home. They need an America offering economic promise, which strengthens the lot of parents and a society providing hope for economic participation, particularly at a young age. But economics is not the only place pro-family leaders should look for solutions. America's moral decline is more often cited by experts as the fundamental cause of family instability. More than 4 out of 5 Americans, that is 83 percent, when polled, say they are deeply concerned about our moral and religious well-being as a Nation. They know we will never effectively reach out to America's youth by avoiding the essential challenge, the lack of spiritual life in society.

As elected representatives, all political leaders ought to be able to discuss the need for spiritual renewal. And we should not be ridiculed and castigated for discussing the spiritual life of our society. Clearly our moral problems are too great to remain silent. Fortunately, where matters of faith are concerned, things are frankly not as bad as the media would have us believe. The fact that the majority of adults in this country believe there is a moral crisis in America is pressing policymakers to the conclusion that there are definite rights and wrongs when it comes to immorality. On increasing occasions, politicians are hearing from constituents their belief in the values of faith, family, community, responsibility, accountability, and they desperately want others, particularly their elected representatives, to believe in them, too.

For America's youth, inclusion in a pious society is perhaps the greatest hope. It is clearly here where we can do the most to stem juvenile violence. A recent survey found that 93 percent of the American people believe in God. Historian Will Durant once concluded that the soul of the Nation is its religion. By that standard the American people are returning to the divine in record numbers. It would be the height of abuse if children were denied the chance to know the God who made them and the glorious truth of His presence among us today.

On this point it becomes apparent that despite the best intentions of the Federal Government, this government is unable to fully embrace wayward youths in the wholesome custom that American people deep down know is needed. The notion of it takes a village is an errant message for Americans precisely because in America the village is too big and too impersonal to really care.

Public institutions and bureaucracies cannot love. They possess no resources or emotion of their own to constitute true charity, and they are incapable of instilling the faith upon which our forefathers built a great nation.

The only thing bureaucracies do well is spend other peoples' money, and they do it with reckless abandon on the chance that a program or two will actually hit its mark. That chance is far too great when a child's future stands in the balance.

Sure government should legitimately continue to maintain a minimal safety net to save children from poverty, and protect their physical health, etc. But if America is serious about reserving moral decay and social disintegration for the sake of juvenile behavior we need to find ways to allow private, and faith-based charities to lead the way; for only they are unrestrained in conveying family values and moral precepts in godly terms that children need and understand. Moral absolutes are good but rarely exist in government settings.

America's youth deserve a country that believes the Right to pursue Happiness is for real, that this right is unalienable, endowed by God and secured for every child. They deserve an America where government rewards honest hard work and respects the authority of families, where they are not unjustly taxed and where jobs are not regulated away.

For juveniles to behave like Americans, they must be allowed to embrace the American Dream. They must be treated like real Americans and given the moral backing to thrive in a free society full of opportunity.

Mr. PAPPAS. I thank the gentleman from Colorado for his enthusiastic comments and his dedication to his family and to our country.

I yield to my friend from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. I would like to thank and congratulate the gentleman from New Jersey for initiating this hour and this issue that we are talking about, I believe the most important issue facing this country. Our children, our young people, our future and the problem they face of drug use, which has just grown immensely. They have often talked about a war. I have not seen a war. As I look back on war, it is life and death. It is fighting till death takes over, or we win the war. I have not seen a war in this country. We may have called it a war, but it is a life and death issue, and I have not seen many leaders in this country that have made drugs a life and death issue.

When we look at what goes on with professional sports today, how many football players in the National Football League and the National Basketball Association and Major League Baseball which is holding a World Series game tonight, how many of their players have had multiple drug use, have been arrested for drugs, have sold drugs and continue after some short penalty to be a leader in this country, a model that our young people look up to and they have had multiple drug crimes, multiple instances where they have used drugs in this country, a terrible example that we have allowed.

Television and the movie industry have glorified drug use. The results of that have been 47 percent of 14-year-olds today say they can buy marijuana within a day. That is half of our young people. 76 percent of high school students and 46 percent of middle school students say that drugs are kept or used or sold on school grounds. 29 percent of high school students and 12 percent of middle school students say that a student in their school died in the past year from an accident related to alcohol or drugs, an astounding figure. 56 percent of high school students and 24 percent of middle school students have attended a party in the past 6 months where marijuana was available. 41 percent of high school students and 18 percent of middle school students have reported seeing drugs sold in school or on school grounds. High school students say that 50 percent of their peers are using drugs at least monthly. 35 percent of teens cite drugs as the most important problem they face.

Every youth group that I speak to, and I never turn one down, and some we organize and we bring them into our district from schools all over our congressional district. We used to do it in the Senate district when I served in State government, and we have panels of issues where we are teaching them about government and talking about issues, the number one issue they want to talk about is drugs. Why is it that young people bring it up again and again? Because they are scared, because they know in some instances that they do not do drugs and that they do not participate in alcohol. They are looked at as some kind of a square, they are not cool, they are not part of the in group. There is a little bit of good news. In 1996, there may have been some good news. Our overall current has remained about the same as last year and currently illicit drug use among teens 12 to 17 years old appears to have declined for the first time since 1992. However, current drug use among 18 to 25-year-olds is still on the rise. While teenage use of marijuana in the past month appears to have declined, in 1996 first-time use of heroin and cocaine has increased. Heroin and cocaine is in our small towns. It is in rural America. It is not just in the cities. Many people made fun of or made light of the Just Say No campaign. But as we look back, even those who criticized it at the time realized it was a crystal clear message. There was no way you could dispute it. There was no way you could not understand.

During that period of time, drug use was really declining. We were making major progress. And then we come to the current administration, the Clinton-Gore administration. Since they have been in office, marijuana use is up 140 percent. LSD use overall is up 183 percent. Use of LSD has reached its highest rate since they began keeping statistics in 1975. Fully 11.7 percent of the class of 1995 have tried it at least once, LSD. And we all know the dangers of that drug. The number of cocaine and heroin-related emergency

room admissions has jumped to historic levels. Perhaps most troubling is the rise in teen drug use during the Clinton administration. The number of 12 to 17-year-olds using marijuana has doubled. Teenage use of cocaine is up 166 percent.

I think a lot of that has been this ambiguous message, no clear message. What are the costs? The costs are unmeasurable. Loss of loved ones. How many of us know a friend who has died? How many of us know a family who has lost a child? The juvenile suicide rate has skyrocketed. I have two granddaughters, Tara and Nicki. Tara is in seventh grade and Nicki is in fourth. My number one concern as a grandparent is their exposure to drugs in school because they are there. The school administration last year thought I was overevaluating the issue. But last spring at the close of the year, two 6th graders were arrested with drugs. The greatest problem facing this country is out of control use of drugs. Our young people are exposed to it on a daily basis. It is an issue that we must make the number one issue in this country. We must start a war on drugs.

Mr. PAPPAS. Mr. Speaker, I get the same thing from students in my district. It is the number one issue as well. I now want to turn to the gentleman from South Dakota [Mr. THUNE] and yield to him.

Mr. THUNE. I thank the gentleman from New Jersey for yielding and credit him with the great work he has done in introducing a resolution which I think calls attention not only to the problem, helping define the problem, but also in terms of the solutions and where we need to look for solutions. I am proud to be a part of the effort tonight to draw attention to this important issue. If we look at what the future of our country depends upon and where America is headed, I do not think there is any problem that is more pervasive and more terrifying than is drug use in this country. Substance abuse is clearly public health enemy number one.

If we look at the effects, they are seen in our Nation in so many different ways, from crime, to violence, to welfare dependency, to divorce, family breakup, domestic violence, child abuse, high health care costs, the spread of AIDS and other sexually transmitted diseases. The cost to our society according to a recent estimate is some $400 billion a year.

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I have always thought that my State of South Dakota, is somewhat immune from these pressures, but we are seeing an increasing evidence of drug use there as well. In fact, drug-related arrests have risen dramatically. In 1991, there were 1,308 drug related arrests. In 1995, there were 3,000. We are seeing a pervasive problem all over the country. It is something that I want to credit my friend from New Jersey for drawing attention to, and I hope that we can continue to have a dialog about what we might do as a country, as communities, as families, as churches, to attack this problem and deal with it in a very realistic way.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman, and I hope that this is the beginning of how our House can continue to focus on this most important issue.

THE WAR ON DRUGS IN AMERICA

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from South Dakota [Mr. THUNE] is recognized for 60 minutes as the designee of the majority leader.

Mr. THUNE. Mr. Speaker, my friend from Pennsylvania [Mr. PETERSON] and I would like to carry on a little bit of this discussion on drug use in America. As I mentioned just previously, we have seen in my state of South Dakota drug use rise in a dramatic way. The number of arrests has almost tripled in the last four years' time.

I want to draw particular attention to one instance that I was recently informed about, which is a good example of this. In July of 1995, drug agents in Lincoln County, South Dakota, got warrants to search a home in the City of Worthing.

Now, Worthing is not what you would call a hot bed of criminal activity. It had a population of 371, but even Worthing, South Dakota, is not immune to the problem of drugs.

When agents entered the home they found what you might expect to find in any home around this country, and that is someone cooking. The only difference was this person was using a recipe from something called the Anarchist Cookbook. He was not cooking with food, he was cooking with chemicals. When agents entered that home in Worthing, a community of 371 people, they found the beginnings of a methamphetamine lab. The man in the home had a wide array of chemicals spread out, and he was trying various combinations, trying to come up with the perfect recipe to cook up a good batch of meth.

Well, eventually he did find the right recipe. I am happy to report, thanks to South Dakota law enforcement agencies, he is now serving a second stint in the South Dakota State Penitentiary. But it goes to show that no city, no matter how large or how small, is immune from the problem of drugs.

That does not mean our communities cannot fight back. There are important initiatives going on all over our State, I believe all over this country, that are attempting to address this important problem in ways that are very practical, very realistic, and I think get at the heart and the core of what the problem is.

If you drive into South Dakota today, you will see when you arrive on the interstate one of 14 different billboards. It says ''Warning: If you bring illegal drugs into South Dakota, plan to stay a long, long time.'' It looks something like this, but you will see it anyplace you enter our state.

These signs are not the result of some piece of Federal legislation, they are not the result of some Federal grant or program. Every billboard is sponsored by a local business. No tax dollars are used. It is an effort coordinated with the state, with local businesses and the cooperation of the private sector, to keep drugs out of our states and out of our communities.

South Dakota is doing other things as well, particularly in the area of our schools. In the largest city in our state, police officers are not only fighting drugs from the police department. They are fighting the war from the hallways of the city's high schools.

Each high school has its own full-time police officer. Each officer has an office at the school. When they walk their beat, they are walking past lockers, past the gymnasium, into the school parking lot, and back through the cafeteria.

The students do not just see the cops when the law is broken. They see officers every day under all kinds of circumstances in the hallways at their schools. These officers are forming bonds with kids, and kids are learning the very fundamental fact that cops are not bad people.

These officers are also able to keep an eye on drug traffic in the schools while keeping an eye on the kids. They talk to students, they talk to parents, they talk to teachers, and they all work together to keep our schools drug free.

People in South Dakota are working at every level to fight the war on drugs. Not long ago a 15 year old came to the attention of the South Dakota Juvenile System. She was running away from home, skipping school, using drugs and drinking.

But instead of just locking her up and then releasing her a few hours later, the State of South Dakota tried a new and novel approach. She was put in a treatment and counseling program. Shortly thereafter, she discovered she was pregnant. Counselors worked with her and with her family to help her quit drinking and taking drugs. She was then placed in a long-term counseling program. She had her baby and went on to live, with the supportive family members, who helped her through the recovery and counseling stages of the process. She went back to school and graduated.

Recently she and her baby showed up at the South Dakota Division of Alcohol and Drug Abuse to thank those very people for helping her to get her life back on track.

These people are trying new programs which bring judges, police officers, teachers, parents and problem children together to deal with the problem when it starts. Hopefully this young woman will go on to lead a productive and fulfilling life. The drug

war, I think we all have to keep in mind, is not going to be an easy war to win. But by bringing parents and children and communities together, we can work to keep drugs out of our communities and out of our children's lives.

I might also add that I think it is important and it has been mentioned previously this evening, that we have to somehow get the message through to our children before they make the decision to try and experiment with drugs. To do that, I think we have to let parents be parents and give them more time to spend with their kids.

We are working in a very intensive and conscious and deliberate way in this body as the Republican leadership to allow parents in this country to keep more of what they earn, so they do not spend all their time working three or four jobs, so they have more quality time to spend with their kids.

We tried to provide education tax incentives so that young people today will see hope and an opportunity to go to college, to go on, to continue their education and lead productive lives. Ultimately the best deterrent that we have for drug use in this country is the family. It is the family more than anything else, that helps us shape and define the values of our culture and of the next generation.

I believe, we need to continue to work at that level, in families, in churches, in communities with individuals, law enforcement people, working together, to try and discourage kids from experimenting with drugs in the first place. I look at my two young girls who are seven and ten, and the temptations that are out there today are pervasive, and they are something that is an incredible pressure that I believe all our young people have to deal with in a way we did not when I was growing up.

But even in our state of South Dakota we are seeing an increasing use. It is a problem which is drawing a considerable amount of attention all over this country, and I think that we need to look, again, into the areas that ultimately are going to be responsible for solving this problem, not some big government solution, but people working together in a constructive, practical, real way, that meets the needs of people where they are at.

I appreciate again the opportunity to discuss this issue this evening. It is a very important one to me, being a father, a parent of young children, who are entering that age of their lives when they are going to be faced with these pressures, and I know my good friend from Pennsylvania, Mr. PETERSON, feels very deeply about this. I would be happy at this point to yield to him.

Mr. PETERSON of Pennsylvania. Mr. Speaker, it is certainly, again, a privilege to say a few more things. I ran short of time here a while ago and didn't get to say some of the things I wanted to mention. I think one of the issues we face is that not all Americans, and especially in rural America, are willing to admit to the problem. I think everybody knows there is drug usage in our rural schools. I think everybody knows there is some drugs in our small towns. But I don't think they are willing to quite accept the immenseness of it, the gravity of it, how much of it is really going on there.

We really have a population across America of people raised in the sixties, and some of those people have never stopped using drugs. So here we have families raising children where drug use has never ceased since the sixties. They have continued to use some form of illegal drugs because they are hooked, and they have not admitted that it is a problem in their lives. But it is.

Last year, I visited a high school close to home, and was concerned about some information I had received about the availability of drugs within the block of the school, about the availability of drugs in the junior high school, and so when I made that visit, I questioned do you bring in dog teams, do you check lockers, do you really make sure that drugs are not kept here?

I was told in Pennsylvania, you cannot do that. It is different State by State. We have had a recent court case in Pennsylvania that has somewhat put the fear in the hearts of administrators and school principles, that they will be sued if they do that.

I am sort of an adventure type. I said I would get sued if it meant keeping drugs out of the school, making sure that every locker, you don't have to really search, you bring in a good dog and you will know if there are drugs in that school, what backpack they are in, what locker or desk they are in. That is just that easy. But that is not common practice in many schools.

I think sometimes school boards are, again, and school administrations, are not willing to admit, I know last year when I questioned sixth and seventh grade having the problem equally to junior high and senior high, I was disputed with that. But then last year, several young people in sixth grade were caught with drugs and were arrested and were prosecuted.

It is clear now. They are afraid of the ACLU. They are afraid of the legal community out there who is going to nail them. I think that is unfortunate. We somehow need to untie our superintendents', our administrators' hands, so they can take whatever means are necessary to make sure that weapons and drugs and stolen property is not being stored on school property.

I think in some cases young people can harbor those things easier in a school where searches are not done and dog teams are not brought in than they can at home, and that is very unfortunate. It is interesting. I was talking to a lady at a restaurant that I stopped at to pick up something on the way to the airport the other day coming in to session this week, and she said to me she closed her private airport in a little town of 1,000. The reason she closed it was too many small planes were coming in and big cars and she didn't know who they were meeting them. It was a little grass strip in the country, but she allowed people to use it. It was a licensed, legal airport, long enough and in a good location. She closed that airport because she had a sense that drugs were being delivered there.

They came in at the inappropriate times and they quickly sped away after they met the airplane and there were people who have since lobbied her that they sure miss that airport. With the small airports across America, it is very easy to fly a large amount of drugs into our communities very easily.

The other problem that rural communities face, and I am again speaking in a Pennsylvania perspective, more than once as a State Senator I brought the State strike force, the narc units in, and more than once they told the local police they would hang around a while to appease the Senator, but they were going back to the urban-suburban areas where they were really fighting the war on drugs. They didn't want to be in rural America.

I do not personally think in a lot of cases, small rural towns have the same ability. When you look at a small police force of 10 people, you cannot use them as narc agents. You cannot have them investigating in the school and places undercover with young people to find out or in the local pubs where drugs are often sold. You cannot have them, you have to have strangers, you have to have people who know what they are doing. It is a very dangerous business.

So I think another area we need to take a hard look at is, does rural America have the same ability to fight back that urban-suburban America has. I think some people think it is their problem; it is not ours, but I want to tell you, I think drug use is almost as prevalent in rural America today as is in urban-suburban America. That is my own personal view from my own experiences as a parent, as a grandparent, and as a community leader before I was involved in State and Federal Government.

It is an issue that I think we just have to start a war on drugs. We have never fought a war on drugs. We may have had a few skirmishes, a few arguments. We may have spent some resources, but when you look at how much resources, I will go back to something I was talking about earlier.

In the first days of this administration, the President cut the drug czar's office by more than 80 percent and the administration cut DEA by 227 agents. Total funding for drug interdiction in the Caribbean, that includes DOD, Coast Guard, Customs, DEA and the State, dropped by more than 40 percent from '92 to '95. However, the $1.6 billion the President recently requested for

interdiction is still less than the $2 billion spent by the previous administration in 1991.

I guess I would like to come back and include in my comments that Congressmen need to speak out, State leaders need to speak out, and this administration needs to speak out. We need to have a crystal clear voice to America that drugs are bad.

I know when I speak to youth groups, I tell them as straight as you can tell them, there is no upside to doing drugs; there is no win to doing drugs. It is a lose-lose-lose proposition.

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Until we get that message to our young people, until they understand that that good feeling they have for a few moments, that they are going to end up with a brain that is sub-par, they are going to end up with all kinds of health problems, and the juvenile suicide rate in this country is very much related to drugs and the abuse of drugs and alcohol.

I think we must always remember that the most abused drug in this country is alcohol. All of us have lost friends and loved ones to drugs, hard drugs, but we have lost many friends and associates to alcohol.

Mr. THUNE. Mr. Speaker, I thank the gentleman. I would simply add that this is, again, an important subject, one on which I think most of us agree we need to do something, and the current approaches have not worked very effectively.

Frankly, again, it is something where we need to work together. As the gentleman mentioned, I think, when he speaks to young people, one of the best jobs I have in this position is being able to talk to young people around this country about how important it is that they make decisions that are based upon something other than the temptation to use drugs.

I think as we, again, debate this, we have an opportunity. We have to be role models from the top down. People who are in public life, athletes, everybody else, has a responsibility in our culture to try and help define the values that our young people adopt. They are very impressionable at that age.

As I speak with young people in my State of South Dakota, that is something that is very important to me to be able to convey, a message that it is important that we establish a tone, set a tenor, where we discuss values, and where things like drug use are discouraged at a very early age, and we stop it at the point of decision. I think that is something that we have a very intense commitment to. I know the members of our class who have spoken here this evening are certainly interested in that subject.

CONFERENCE REPORT ON H.R. 2107, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. REGULA submitted the following conference report and statement on the bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–337)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107) ''making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1998, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 7, 13, 28, 30, 35, 40, 54, 61, 91, 95, 106, 131.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 10, 16, 18, 20, 25, 31, 33, 38, 39, 41, 44, 45, 46, 47, 48, 49, 52, 53, 56, 58, 59, 60, 62, 63, 64, 66, 71, 72, 73, 75, 76, 79, 85, 86, 92, 94, 100, 107, 112, 113, 116, 117, 119, 120, 122, 123, 125, 126, 127, 133, 135, 139, 140, 141, 145, 147, 148, 149, 154, 155, 159, 160, and 161; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$120,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,200,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$594,842,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *, and of which not to exceed $5,190,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended: Provided, That the proviso under this heading in Public Law 104-208 is amended by striking the words ''Education and'' and inserting in lieu thereof ''Conservation'', by striking the word ''direct'' and inserting in lieu thereof the word ''full'', and by inserting before the period '', to remain available until expended''*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$45,006,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,228,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: $62,632,000; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,700,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,233,664,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$44,259,000, of which $4,500,000 is for grants to Heritage areas in accordance with section 606 of title VI, division I and titles I–VI and VIII–IX, division II of Public Law 104–333 and is*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,812,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment insert: *$4,200,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$214,901,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment, insert: *: Provided, That $500,000 for the Rutherford B. Hayes Home; $600,000 for the Sotterly Plantation House; $500,000 for the Darwin Martin House in Buffalo, New York; $500,000 for the Penn Center, South Carolina; and $1,000,000 for the Vietnam Veterans Museum in Chicago, Illinois shall be*

derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided further, That $3,000,000 for the Hispanic Cultural Center, New Mexico, is subject to authorization: Provided further, That none of the funds provided in this Act may be used to relocate the Brooks River Lodge in Katmai National Park and Preserve from its current physical location; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$143,290,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$759,160,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$145,159,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$137,521,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$68,574,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,528,588,000*; and the Senate agree to the same. Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,949,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$67,514,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$63,665,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$33,907,000*; and the Senate agree to the same. Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 107. In fiscal year 1998 and thereafter, for those years in which the recreation fee demonstration program authorized in Public Law 104–134 is in effect, the fee collection support authority provided in 16 U.S.C. 460l–6(i)(1)(B) applies only to parks not included in the fee demonstration program, and that the amount retained under this authority to cover fee collection costs will not exceed those costs at the non-demonstration parks, or 15 percent of all fees collected at non-demonstration parks in a fiscal year whichever is less. Fee collection costs for parks included in the fee demonstration program will be covered by the fees retained at those parks.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 118. Any funds made available in this Act or any other Act for tribal priority allocations (hereinafter in this section ''TPA'') in excess of the funds expended for TPA in fiscal year 1997 (adjusted for fixed costs, internal transfers pursuant to other law, and proposed increases to formula driven programs not included in tribes' TPA base) shall only be available for distribution—

(1) to each tribe to the extent necessary to provide that tribe the minimum level of funding recommended by the Joint-Tribal/BIA/DOI Task Force on Reorganization of the Bureau of Indian Affairs Report of 1994 (hereafter ''the 1994 Report'') not to exceed $160,000 per tribe; and

(2) to the extent funds remain, such funds will be allocated according to the recommendations of a task force comprised of 2 designated Federal officials and 2 tribal representatives from each BIA area. These representatives shall be selected by the Secretary after considering a list of names of tribal leaders nominated and elected by the tribes in each area. The list of nominees shall be provided to the Secretary by October 31, 1997. If the tribes in an area fail to submit a list of nominees to the Secretary by October 31, 1997, the Secretary shall select representatives after consulting with the BIA. In determining the allocation of remaining funds, the Task Force shall consider the recommendations and principles contained in the 1994 Report. If the Task Force cannot agree on a distribution by January 31, 1998, the Secretary shall distribute the remaining funds based on the recommendations of a majority of Task Force members no later than February 28, 1998. If a majority recommendation cannot be reached, the Secretary in exercising his discretion shall distribute the remaining funds considering the recommendations of the Task Force members.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 120. Notwithstanding any other provision of law, 90 days after enactment of this section there is hereby vested in the United States all right, title and interest in and to, and the right of immediate possession of, all patented mining claims and valid unpatented mining claims (including any unpatented claim whose validity is in dispute, so long as such validity is later established in accordance with applicable agency procedures) in the area known as the Kantishna Mining District within Denali National Park and Preserve, for which all current owners (or the bankruptcy trustee as provided hereafter) of each such claim (for unpatented claims, ownership as identified in recordations under the mining laws and regulations) consent to such vesting in writing to the Secretary of the Interior within said 90-day period: Provided, That in the case of a mining claim in the Kantishna Mining District that is involved in a bankruptcy proceeding, where the bankruptcy trustee is a holder of an interest in such mining claim, such consent may only be provided and will be deemed timely for purposes of this section if the trustee applies within said 90-day period to the bankruptcy court or any other appropriate court for authority to sell the entire mining claim and to consent to the vesting of title to such claim in the United States pursuant to this section, and that in such event title in the entire mining claim shall vest in the United States 10 days after entry of an unstayed, final order or judgment approving the trustee's application: Provided further, That the United States shall pay just compensation to the aforesaid owners of any valid claims to which title has vested in the United States pursuant to this section, determined as of the date of taking: Provided further, That payment shall be in the amount of a negotiated settlement of the value of such claim or the valuation of such claim awarded by judgment, and such payment, including any deposits in the registry of the court, shall be made solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, and shall include accrued interest on the amount of the agreed settlement value or the final judgment from the date of taking to the date of payment, calculated in accordance with section 258a, title 40, United States Code: Provided further, That the United States or a claim owner or bankruptcy trustee may initiate proceedings after said 90-day period, but no later than six years after the date of enactment of this section, seeking a determination of just compensation in the District Court for the District of Alaska pursuant to the Declaration of Taking Act, sections 258a–e of title 40, United States Code (except where inconsistent with this section), and joining all owners of the claim: Provided further, That when any such suit is instituted by the United States or the owner or bankruptcy trustee, the United States shall deposit as soon as possible in the registry of the court the estimated just compensation, in accordance with the procedures generally described in section 258a of title 40, United States Code, not otherwise inconsistent with this section: Provided further, That in establishing any estimate for deposit in the court registry (other than an estimate based on an agency approved appraisal made prior to the date of enactment of this Act) the Secretary of the Interior shall permit the claim owner to present information to the Secretary on the value of the claim, including potential mineral value, and the Secretary shall consider such information and permit the claim owner to have a reasonable and sufficient opportunity to comment on such estimate: Provided further, That the estimated just compensation deposited in the court registry shall be paid forthwith to the aforesaid owners upon application to the court: Provided further, That any payment from the court registry to the aforesaid owners shall be deducted from any negotiated settlement or award by judgment: Provided further, That the United States may not request the court to withhold any payment from the court registry for environmental remediation with respect to such claim: Provided further, That the Secretary shall not allow any unauthorized use of claims acquired pursuant to this section after the date title vests in the United States pursuant to this section, and the Secretary shall permit the orderly termination of all operations on the lands and the removal of equipment, facilities, and personal property by claim owners or bankruptcy trustee (as appropriate).

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, amended as follows:

Before the period at the end of the amendment, insert: *and by inserting at the end of the section the following new sentence: ''If such litigation is commenced, at the court trial, any party may introduce any relevant evidence bearing on the interpretation of the 1976 agreement.''*

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 122. (a) KODIAK LAND VALUATION.—Notwithstanding the Refuge Revenue Sharing Act (16 U.S.C. 715s) or any regulations implementing such Act, the fair market value for the initial computation of the payment to Kodiak Island Borough pursuant to such Act shall be based on the purchase price of the parcels acquired from Akhiok-Kaguyak, Incorporated, Koniag, Incorporated, and the Old Harbor Native Corporation for addition to the Kodiak National Wildlife Refuge.

(b) The fair market value of the parcels described in subsection (a) shall be reappraised by the Alaska Region of the United States Fish and Wildlife Service under the Refuge Revenue Sharing Act (16 U.S.C. 715s). Any such reappraisals shall be made in accordance with such Act and any other applicable law and regulation, and shall be effective for any payments made in fiscal year 1999.

(c) The fair market value computation required under subsection (a) shall be effective as of the date of the acquisition of the parcels described is such subsection.

And the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 123. ASSESSMENT OF FEES.—

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717 (a)) is amended—

(1) in paragraph (1), by striking ''class II gaming activity'' and inserting ''gaming operation that conducts a class II or class III gaming activity''; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), by striking ''no less than 0.5 percent nor'' and inserting ''no''; and

(B) in subparagraph (B), by striking ''$1,500,000'' and inserting ''$8,000,000''.

(C) nothing in subsection (a) of this section shall apply to self-regulated tribes such as the Mississippi Band of Choctaw.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended—

(1) in subsection (a), by striking ''such sums as may be necessary'' and inserting ''for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a) for the fiscal year immediately preceding the fiscal year involved,''; and

(2) by striking subsection (b) and inserting the following:

''(b) Notwithstanding section 18, there are authorized to be appropriated to fund the operation of the Commission, $2,000,000 for fiscal year 1998, and $2,000,000 for each fiscal year thereafter. The amounts authorized to be appropriated in the preceding sentence shall be in addition to the amounts authorized to be appropriated under subsection (a).''.

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 127. For the sole purpose of accessing park or other authorized visitor services or facilities at, or originating from, the public dock area at Bartlett Cove, the National Park Service shall initiate a competitive process by which the National Park Service shall allow one-entry per day for a passenger ferry into Bartlett Cove from Juneau: Provided, That any passenger ferry allowed entry pursuant to this Act shall be subject to speed, distance from coast lines, and other limitations imposed necessary to protect park resources: Provided further, That nothing in this Act shall be construed as constituting approval for entry into the waters of Glacier Bay National Park and Preserve beyond the immediate Bartlett Cove area as defined by a line extending northeastward from Pt. Carolus to the west to the southernmost point of Lester Island, absent required permits.

And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 131. No funds provided in this or any other Act may be expended for the promulgation of a proposed or final rule to amend or replace the National Indian Gaming Commission's definition regulations located at 25 CFR 502.7 and 502.8.

And the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 132. Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service.

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 134. CONVEYANCE OF CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN CLARK COUNTY, NEVADA.—

(a) FINDINGS.—Congress finds that—

(1) certain landowners who own property adjacent to land managed by the Bureau of Land Management in the North Decatur Boulevard area of Las Vegas, Nevada, bordering on North Las Vegas, have been adversely affected by certain erroneous private land surveys that the landowners believed were accurate;

(2) the landowners have occupied or improved their property in good faith reliance on the erroneous surveys of the properties;

(3) the landowners believed that their entitlement to occupancy was finally adjudicated by a Judgment and Decree entered by the Eighth Judicial District Court of Nevada on October 26, 1989;

(4) errors in the private surveys were discovered in connection with a dependent resurvey and section subdivision conducted by the Bureau of Land Management in 1990, which established accurate boundaries between certain federally owned properties and private properties; and

(5) the Secretary has authority to sell, and it is appropriate that the Secretary should sell, based on an appraisal of the fair market value as of December 1, 1982, the properties described in section 2(b) to the adversely affected landowners.

(b) CONVEYANCE OF PROPERTIES.—

(1) PURCHASE OFFERS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas, Nevada, on behalf of the owners of real property located adjacent to the properties described in paragraph (2), may submit to the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this Act as the ''Secretary''), a written offer to purchase the properties.

(B) INFORMATION TO ACCOMPANY OFFER.—An offer under subparagraph (A) shall be accompanied by—

(i) a description of each property offered to be purchased;

(ii) information relating to the claims of ownership of the property based on an erroneous land survey; and

(iii) such other information as the Secretary may require.

(2) DESCRIPTION OF PROPERTIES.—The properties described in this paragraph, containing 37.36 acres, more or less, are—

(A) Government lots 22, 23, 26, and 27 in sec. 18, T. 19 S., R. 61 E., Mount Diablo Meridian;

(B) Government lots 20, 21, and 24 in sec. 19, T. 19 S., R. 61 E., Mount Diablo Meridian; and

(C) Those lands encroached upon in Government lot 1 in sec. 24, T. 19 S., R. 60 E., Mount Diablo Meridian, containing approximately 8 acres.

(3) CONVEYANCE.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the Secretary shall convey subject to valid existing rights to the city of Las Vegas, Nevada, all right, title, and interest of the United States in and to the properties offered to be purchased under paragraph (1) on payment by the city of the fair market value of the properties, based on an appraisal of the fair market value as of December 1, 1982, approved by the Secretary.

(B) CONDITION.—Properties shall be conveyed under subparagraph (A) subject to the condition that the city convey the properties to the landowners who were adversely affected by reliance on erroneous surveys as described in subsection (a).

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 135. (a) Notwithstanding any other provision of law, the Secretary of the Interior is directed to accept full title to approximately 84 acres of land located in Prince Georges County, Maryland, adjacent to Oxon Cove Park, and bordered generally by the Potomac River, Interstate 295 and the Woodrow Wilson Bridge, and in exchange therefor shall convey to the Corrections Corporation of America all of the interest of the United States in approximately 42 acres of land located in Oxon Cove Park in the District of Columbia, and bordered generally by Oxon Cove, Interstate 295 and the District of Columbia Impound Lot.

(b) The Secretary shall not acquire any lands under this section if the Secretary determines tha the lands or any portion thereof have become contaminated with hazardous substances

(as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(c) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this section after their transfer to any party, but nothing in this section shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party: Provided, that the Corrections Corporation of America shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601) and the Resource Conservation Recovery Act (42 U.S.C. 9601, et seq.).

(d) The properties so exchanged shall be equal in fair market value or if they are not approximately equal, the Corrections Corporation of America shall equalize the values by the payment of cash to the Secretary and any such payments shall be deposited to credit of ''Miscellaneous Trust Funds, National Park Service'' and shall be available without further appropriation until expended for the acquisition of land within the National Park System. No equalization shall be required if the value of the property received by the Secretary is more than that transferred by the Secretary.

(e) Costs of conducting necessary land surveys, preparing the legal descriptions of the lands to be conveyed, appraisals, deeds, other necessary documents, and administrative costs shall be borne by the Corporation. The required appraisals shall be conducted in accordance with 43 C.F.R. §2201.3–1, §2201.3–3 and §2201.3–4.

(f) Following any exchange authorized by this provision, the boundaries of the Park System of the Nation's Capital are hereby amended to reflect the property added to and deleted from that System.

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 136. The National Park Service shall, within 30 days of enactment of this Act, begin negotiations with the University of Alaska Fairbanks, School of Mineral Engineering, to determine the compensation that shall be paid by the National Park Service, within funds appropriated to the National Park Service in this Act, or within unobligated balances of funds appropriated in prior Appropriations Acts, to the University of Alaska Fairbanks, School of Mineral Engineering, for facilities, equipment, and interests owned by the University that were destroyed by the Federal Government at the Stampede Mine Site within the boundaries of Denali National Park and Preserve: Provided, That if the National Park Service and the University of Alaska Fairbanks, School of Mineral Engineering, fail to reach a negotiated settlement within 90 days of commencing negotiations, then the National Park Service shall submit a formal request to the Director of the Office of Hearings and Appeals, Department of the Interior, for the purpose of entering into third-party mediation to be conducted in accordance with the Department of the Interior's final policy applicable to alternative dispute resolution: Provided further, That any payment made by the National Park Service to the University of Alaska Fairbanks, School of Mineral Engineering, shall fully satisfy the claims of the University of Alaska Fairbanks, School of Mineral Engineering; and that the University of Alaska Fairbanks, School of Mineral Engineering, shall convey to the Secretary of the Interior all property rights in such facilities, equipment and interests: Provided further, That the Secretary of the Army shall provide, at no cost, two six by six vehicles, in excellent operating condition, or equivalent equipment to the University of Alaska Fairbanks, School of Mineral Engineering, and shall construct a bridge across the Bull River to the Golden Zone Mine Site to allow ingress and egress for the activities conducted by the School of Mineral Engineering.

And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$187,944,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$161,237,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,348,377,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: after the words ''design costs'' in said amendment insert: *: Provided further, That any such project must be approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 105–163*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$584,707,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$166,045,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$52,976,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,250,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$750,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

No funds appropriated under this or any other Act for the purpose of operations conducted at the Forest Service Region 10 headquarters, including those funds identified for centralized field costs for employees of this office, shall be obligated or expended in excess of $17,500,000 from the total funds appropriated for Region 10, without 60 days prior notice to Congress. Funds appropriated by this Act to implement the Revised Tongass National Forest Land Management Plan, shall be spent and obligated at the Forest Supervisor and Ranger District levels, with the exception of specific management and oversight expenses, provided such expenses are included in the funding ceiling of $17,500,000.

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$362,403,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$611,723,000;* and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$155,095,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$124,845,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,250,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et. seq.), $207,500,000, to remain available until expended, of which $207,500,000 shall be repaid from the ''SPR Operating Fund'' from amounts made available from the sale of oil from the Reserve: Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1998 $207,500,000 worth of oil from the Strategic Petroleum Reserve: Provided further, That

the proceeds from the sale shall be deposited into the ''SPR Operating Fund'', and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,841,074,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$361,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That not to exceed $168,702,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Indian Health Service prior to fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975, as amended*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in the matter restored insert: *$257,538,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,250,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$333,408,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,192,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$81,240,000* ; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,280,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Sec. 316. SUBSISTENCE HUNTING AND FISHING IN ALASKA.—

(a) MORATORIUM ON FEDERAL MANAGEMENT.—None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act hereafter enacted may be used prior to December 1, 1998 to issue or implement final regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

(b) AMENDMENTS TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—

(1) AMENDMENT OF ANILCA.—Except as otherwise expressly provided, whenever in this subsection 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 Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(2) DEFINITIONS.—Section 102(2) (16 U.S.C. 3102(2)) is amended to read as follows:

''(2) The term 'Federal land' means lands the title to which is in the United States after December 2, 1980. ''Federal land'' does not include lands the title to which is in the State, a Native Corporation, or other private ownership.''.

(3) FINDINGS.— Section 801 (16 U.S.C. 3111) is amended—

(A) by inserting ''(a)'' immediately before ''The Congress finds and declares'; and

(B) by inserting at the end the following new subsection:

''(b) The Congress finds and declares further that—

''(1) subsequent to the enactment of this Act in 1980, the subsistence law of the State of Alaska (AS 16.05) accomplished the goals of Congress and requirements of this Act in providing subsistence use opportunities for rural residents of Alaska, both Native and non-Native;

(2) the Alaska subsistence law was challenged in Alaska courts, and the rural preference requirement in the law was found in 1989 by the Alaska Supreme Court in McDowell v. State of Alaska (785 P.2d 1, 1989) to violate the Alaska Constitution;

''(3) since that time, repeated attempts to restore the validity of the State law through an amendment to the Alaska Constitution have failed, and the people of Alaska have not been given the opportunity to vote on such an amendment;

''(4) in accordance with title VIII of this Act, the Secretary of the Interior is required to manage fish and wildlife for subsistence uses on all public lands in Alaska because of the failure of State law to provide a rural preference;

''(5) the Ninth Circuit Court of Appeals determined in 1995 in State of Alaska v. Babbitt (73 F.3d 698) that the subsistence priority required on public lands under section 804 of this Act applies to navigable waters in which the United States has reserved water rights as identified by the Secretary of the Interior;

''(6) management of fish and wildlife resources by State governments has proven successful in all 50 states, including Alaska, and the State of Alaska should have the opportunity to continue to manage such resources on all lands, including public lands, in Alaska in accordance with this Act, as amended; and

(7) it is necessary to amend portions of this Act to restore the original intent of Congress to protect and provide for the continued opportunity for subsistence uses on public lands for Native and non-Native rural residents through the management of the State of Alaska.''.

(4) TITLE VIII DEFINITIONS.—Section 803 (16 U.S.C. 3113) is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period and inserting a semicolon at the end of paragraph (2); and

(C) by inserting at the end the following new paragraphs:

''(3) 'customary and traditional uses' means the noncommercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established over a reasonable period of time, taking into consideration the availability of the fish and wildlife;

''(4) 'customary trade' means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and

''(5) 'rural Alaska resident' means a resident of a rural community or area. A 'rural community or area' means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.''.

(5) PREFERENCE FOR SUBSISTENCE USES.—Section 804 (16 U.S.C. 3114) is amended—

(A) by inserting ''(a)'' immediately before the first sentence; and

(B) by inserting at the end the following new subsection:

''(b) The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term 'reasonable opportunity' means an opportunity, consistent with customary and traditional uses (as defined in section 803(3)), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guarantee that fish and wildlife will be taken.''.

(6) LOCAL AND REGIONAL PARTICIPATION.—Section 805 (16 U.S.C. 3115) is amended—

(A) in subsection (a) by striking ''one year after the date of enactment of this Act,''; and

(B) by amending subsection (d) to read as follows:

''(d)(1) Upon certification by the Secretary that the State has enacted and implemented laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805, the Secretary shall not implement subsections (a), (b), and (c) of this section, and the State may immediately assume management for the taking of fish and wildlife on the public lands for subsistence uses pursuant to this title. Upon assumption of such management by the State, the Secretary shall not implement subsections (a), (b), and (c) of this section unless a court of competent jurisdiction determines that such laws have been repealed, modified, or implemented in a way that is inconsistent with, or does not provide for, the definition, preference, and participation specified in sections 803, 804, and 805, or that the State has failed to cure any such inconsistency after such determination. The State laws shall otherwise supercede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. The Secretary may bring a judicial action to enforce this subsection.

''(2)(A) Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses.

The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

''(B) The members of each regional advisory council established under this subsection shall be appointed by the Governor of Alaska. Each council shall have ten members, four of whom shall be selected from nominees who reside in the region submitted by tribal councils in the region, and six of whom shall be selected from nominees submitted by local governments and local advisory committees. Three of these six shall be subsistence users who reside in the subsistence resource region and three shall be sport or commercial users who may be residents of any subsistence resource region. Regional council members shall have staggered terms of three years in length, with no limit on the number of terms a member may serve. A quorum shall be a majority of the members of the council.''.

(7) JUDICIAL ENFORCEMENT.—Section 807 (16 U.S.C. 3117) is amended by inserting the following as subsection (b):

''(b) State agency actions may be declared invalid by the court only if they are arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law. When reviewing any action within the specialized knowledge of a State agency, the court shall give the decision of the State agency the same deference it would give the same decision of a comparable federal agency.''.

(8) REGULATIONS.—Section 814 (16 U.S.C. 3124) is amended—

(A) by inserting '', and the State at any time the State has complied with section 805(d)'' after ''Secretary''; and

(B) by adding at the end the following new sentence: ''During any time that the State has complied with section 805 (d), the Secretary shall not make or enforce regulations implementing sections 805 (a), (b), or (c).''.

(9) LIMITATIONS, SAVINGS CLAUSES.—Section 815 (16 U.S.C. 3125) is amended—

(A) by striking ''or'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and ''or''; and

(C) by inserting at the end the following new paragraph:

''(5) prohibiting the Secretary or the State from entering into co-management agreements with Native organizations or other local or regional entities when either is managing fish and wildlife on public lands in Alaska for subsistence uses.''.

(c) SAVINGS CLAUSE.—No provision of this section, amendment made by this section, or exercise of authority pursuant to this section may be construed to validate, invalidate, or in any way affect—

(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska;

(2) any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist within the boundaries of the State of Alaska;

(3) any assertion that the Alaska National Interest Lands Conservation Act, as amended, (16 U.S.C. 3101 et seq.) is or is not Indian law; or

(4) the authority of the Secretary of the Interior under section 1314(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202(c)).

(d) EFFECTIVE DATE.—Unless and until laws are adopted in the State of Alaska which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), the amendments made by subsection (b) of this section shall be effective only for the purposes of determining whether the State's laws provide for such definition, preference, and participation. The Secretary shall certify before December 1, 1998 if such laws have been adopted in the State of Alaska. Subsection (b) shall be repealed on such date if such laws have not been adopted.

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 317. Section 909(b)(2) of Division II, Title IX of P.L. 104–333 is hereby amended to delete the sentence which reads ''For technical assistance pursuant to section 908, not more than $50,000 annually.''.

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture that exceeds the funding provided for these activities from this Act during fiscal year 1997.

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

Before the final period in the matter restored insert: *; and amend section 315(c)(1), subsection (C) as follows: after the words ''the Fish and Wildlife Service'', insert ''and the National Park Service''*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 323. (a) Prior to the completion of any decision document or the making of any decision related to the final Environmental Impact Statements (hereinafter ''final EISs'') associated with the Interior Columbia Basin Ecosystem Project (hereinafter the ''Project''), the Secretary of Agriculture and the Secretary of the Interior shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report that shall include:

(1) a detailed description of any and all land and resource management planning and policy or project decisions to be made, by type and by the level of official responsible, and the procedures for such decisions to be undertaken, by the Forest Service, Bureau of Land Management, and Fish and Wildlife Service pursuant to the National Forest Management Act, Federal Land Policy and Management Act, Endangered Species Act, National Environmental Policy Act and any other applicable law in order to authorize and implement actions affecting the environment on Federal lands within the jurisdiction of either Secretary in the Project area that are consistent with the final EISs;

(2) a detailed estimation of the time and cost (for all participating federal agencies) to accomplish each decision described in paragraph (1), from the date of initiation of preparations for, to the date of publication or announcement of, the decision, including a detailed statement of the source of funds for each such decision and any reprogramming in fiscal year 1998;

(3) estimated production of goods and services from each unit of the Federal lands for the first 5 years during the course of the decision making described in paragraph (1) beginning with the date of publication of the applicable final EIS; and

(4) if the requirements described in paragraphs (1) through (3) cannot be accomplished within the appropriations provided in this Act, adjusted only for inflation, in subsequent fiscal years and without any reprogramming of such appropriations, provide a detailed description of the decision making process that will be used to establish priorities in accordance with such appropriations.

(b) Using all research information available from the area encompassed by the Project, the Secretaries, to the extent practicable, shall analyze the economic and social conditions, and culture and customs, of the communities at the sub-basin level within the Project area and the impacts the alternatives in the draft EISs will have on those communities. This analysis shall be published on a schedule that will allow a reasonable period of time for public comment thereon prior to the close of the comment periods on the draft EISs. The analysis, together with the response of the Secretaries to the public comment, shall be incorporated in the final EISs and, subject to subsection (a), subsequent decisions related thereto.

(c) Nothing in this section shall be construed as altering or affecting in any manner any provision of applicable land or resource management plans, PACFISH, INFISH, Eastside screens, and other policies adopted by the Forest Service or Bureau of Land Management prior to the date of enactment of this Act to protect wildlife, watershed, riparian, and other resources of the Federal lands.

And the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 326. (a) Notwithstanding any other provision of law, after September 30, 1997 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.), with any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to August 27, 1997, or to prohibit the renewal of any such agreement.

(c) The General Accounting Office shall conduct a study of the impact of contracting and compacting by the Indian Health Service under Public Law 93-638 with Alaska Native villages and Alaska Native village corporations for the

provision of health care services by Alaska Native regional corporation health care entities. The General Accounting Office shall submit the results of that study to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives by June 1, 1998.

(d) Section 1004 of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3956) is amended—

(1) in subsection (a) by striking ''for use as a health or social services facility'' and insert in lieu thereof ''for sale or use other than for a facility for the provision of health programs funded by the Indian Health Service (not including any such programs operated by Ketchikan Indian Corporation prior to 1993)';and

(2) by striking subsection (c).

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 327. None of the funds made available by this Act may be used to require any person to vacate real property where a term is expiring under a use and occupancy reservation in Sleeping Bear Dunes National Lakeshore until such time as the National Park Service (NPS) indicates to the appropriate Congressional Committees and the holders of these reservations that it has sufficient funds to remove the residence on that property within 90 days of that residence being vacated. The NPS will provide at least 90 days notice to the holders of expired reservations to allow them time to leave the residence. The NPS will charge fair market value rental rates while any occupancy continues beyond an expired reservation. Reservation holders who stay beyond the expiration date will also be required to pay for appraisals to determine current fair market value rental rates, any rehabilitation needed to ensure suitability for occupancy, appropriate insurance, and all continuing utility costs.

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 328. (a) None of the funds made available in this Act or any other Act providing appropriations for the Department of the Interior, the Forest Service or the Smithsonian Institution may be used to submit nominations for the designation of Biosphere Reserves pursuant to the Man and Biosphere program administered by the United Nations Educational, Scientific, and Cultural Organization.

(b) The provisions of this section shall be repealed upon enactment of subsequent legislation specifically authorizing U.S. participation in the Man and Biosphere program.

And the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997, or having been court-ordered to revise, are exempt from this section and may utilize funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.

And the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the five year program under the Forest and Rangeland Renewable Resources Planning Act.

And the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After ''fiscal year 1998'', delete ''and each year thereafter''; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After the word ''may'', delete the word ''hereafter'', and insert in lieu thereof: ''*, until September 30, 2000,*''; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 340. (a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

(d) During this two year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967, commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the Site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

(k) Notwithstanding the processes involved with the National Environmental Policy Act and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 341. The National Wildlife Refuge in Jasper and Marion Counties, Iowa, authorized in Public Law 101–302 shall be referred to in any law, regulation, documents or record of the United States in which such project is referred to, as the Neal Smith National Wildlife Refuge.

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

After ''July 1997'' in said amendment insert: ''*and issuing a Record of Decision*''; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 343. The Secretary of Agriculture shall hereafter phase in, over a 3 year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee, provided that no recreation

residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: Provided, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

At the end of the amendment insert:

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1); and

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act.

(e) Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended to read as follows:

''(b) APPOINTMENT AND COMPOSITION OF COUNCIL.—(1) The Council shall be composed of members as follows:

''(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

''(B) Members of Congress appointed for a 2 year term beginning on January 1 of each odd-numbered year as follows:

''(i) 2 Members of the House of Representatives appointed by Speaker of the House of Representatives.

''(ii) 1 Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

''(iii) 2 Senators appointed by the Majority Leader of the Senate.

''(iv) 1 Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex-officio and shall be nonvoting members of the Council.

''(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

''(i) from among private citizens of the United States who—

''(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts; and

''(II) have established records of distinguished service, or achieved eminence, in the arts;

''(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

''(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

''(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

''(A) Notwithstanding paragraph (b)(1)(B), members first appointed pursuant to such paragraph shall be appointed not later than December 31, 1997. Notwithstanding such paragraph, such members shall be appointed to serve until December 31, 1998.

''(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new Members shall not be appointed under subsection (b)(1)(C) until the number of Presidentially appointed members is less than 14.''.

(f) Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended—

(1) by inserting ''appointed under subsection (b)(1)(C)'' after ''member'' each place it appears, and

(2) in the second sentence by inserting ''appointed under subsection (b)(1)(C)'' after ''members''.

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

SEC. 347. No timber sale in Region 10 shall be advertised which, when using domestic Alaska western red cedar selling values and manufacturing costs, fails to provide at least 60 percent of normal profit and risk of the appraised timber, except at the written request by a prospective bidder. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 1998, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan which provides greater than 60 percent of normal profit and risk at the time of the sale advertisement, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at domestic rates. Should Region 10 sell, in fiscal year 1998, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan meeting the 60 percent of the normal profit and risk standard at the time of advertisement, the volume of western red cedar available to domestic processors at domestic rates in the contiguous 48 states shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported and sold at export rates at the election of the timber sale holder. All Alaska yellow cedar may be sold at export rates at the election of the timber sale holder.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 348. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert:

TITLE IV—ENVIRONMENTAL IMPROVEMENT AND RESTORATION FUND

(a) One half of the amounts awarded by the Supreme Court to the United States in the case of United States of America v. State of Alaska (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the ''Environmental Improvement and Restoration Fund'' (referred to in this section as the ''Fund'').

(b) INVESTMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligations acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest earned from investments of the Fund shall be covered into and form a part of the Fund.

(c) TRANSFER AND AVAILABILITY OF AMOUNTS EARNED.— EACH YEAR, INTEREST EARNED AND COVERED INTO THE FUND IN THE PREVIOUS FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION, TO THE EXTENT PROVIDED IN THE SUBSEQUENT APPROPRIATIONS ACTS, AS FOLLOWS:

(1) 80 percent of such amounts shall be made available to be equally divided among the Directors of the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Chief of the Forest Service for high priority deferred maintenance and modernization of facilities that directly enhance the experience of visitors, including natural, cultural, recreational, and historic resources protection projects in National Parks, National Wildlife Refuges, and the public lands respectively as provided in subsection (d) and for payment to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field. The Secretary shall submit with the annual budget submission to Congress a list of high priority maintenance and modernization projects for Congressional consideration.

(2) 20 percent of such amounts shall be made available to the Secretary of Commerce for the purpose of carrying out marine research activities in the North Pacific in accordance with subsection (e).

(d) PROJECTS.—A project referred to in paragraph (c)(1) shall be consistent with the laws governing the National Park System, the National Wildlife Refuge System, the public lands and Forest Service lands and management plan for such unit.

(e) MARINE RESEARCH ACTIVITIES.—(1) Funds available under subsection (C)(2) shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).

(2) Research priorities and grant requests shall be reviewed and recommended for Secretarial approval by a board to be known as the

North Pacific Research Board (referred to in this subsection as the ''Board''). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts designed to address pressing fishery management or marine ecosystem information needs.

(3) The Board shall be comprised of the following representatives or their designees—

(A) the Secretary of Commerce, who shall be a co-chair of the Board;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Commandant of the Coast Guard;

(E) the Director of the Office of Naval Research;

(F) the Alaska Commissioner of Fish and Game, who shall also be a co-chair of the Board;

(G) the Chairman of the North Pacific Fishery Management Council;

(H) the Chairman of the Arctic Research Commission;

(I) the Director of the Oil Spill Recovery Institute;

(J) the Director of the Alaska SeaLife Center;

(K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom shall represent academia, and one of whom shall represent oil and gas interests;

(L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and

(M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.

The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three year terms, and may be reappointed.

(4)(A) The Secretary of Commerce shall review and administer grants recommended by the Board. If the Secretary does not approve a grant recommended by the board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.

(B) Grant recommendations and other decisions of the Board shall be by majority vote, with each member having one vote. The Board shall establish written criteria for the submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for the purposes of section 302(i)(1) of such Act, and the other procedural matters applicable to advisory panels under section 302(i) of such Act shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board. Not more than 5 percent of the funds provided to the Secretary of Commerce under paragraph (10 may be used to provide support for the Board and administer grants under this subsection.

(f) SUNSET.—If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1998, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.

And the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

For priority land acquisitions, land exchange agreements, other activities consistent with the Land and Water Conservation Fund Act of 1965, as amended, and critical maintenance to be conducted by the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, $699,000,000, to be derived from the Land and Water Conservation Fund notwithstanding any other provision of law, to remain available until September 30, 2001, of which $167,000,000 is available to the Secretary of Agriculture and $532,000,000 is available to the Secretary of the Interior: Provided, That of the funds made available to the Secretary of Agriculture, not to exceed $65,000,000 may be used to acquire interests to protect and preserve Yellowstone National Park, pursuant to the terms and conditions set forth in sections 502 and 504 of this title, and $12,000,000 may be used for the rehabilitation and maintenance of the Beartooth Highway pursuant to section 502 of this title: Provided further, That of the funds made available to the Secretary of the Interior, not to exceed $250,000,000 may be used to acquire interests to protect and preserve the Headwaters Forest, pursuant to the terms and conditions set forth in sections 501 and 504 of this title, and $10,000,000 may be used for a direct payment to Humboldt County, California pursuant to section 501 of this title: Provided further, That the Secretary of the Interior and the Secretary of Agriculture, after consultation with the heads of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, shall, in fiscal year 1998 and each of the succeeding three fiscal years, jointly submit to Congress a report listing the lands and interests in land that the Secretaries propose to acquire or exchange and the maintenance requirements they propose to address using funds provided under this heading for purposes other than the purposes of sections 501 and 502 of this title: Provided further, That none of the funds appropriated under this heading for purposes other than the purposes of sections 501 and 502 of this title shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a list of projects to be undertaken with such funds: Provided further, That monies provided in this title, when combined with monies provided by other titles in this Act, shall, for the purposes of section 205(a) of H. Con. Res. 84 (105th Congress), be considered to provide $700,000,000 in budget authority for fiscal year 1998 for Federal land acquisitions and to finalize priority land exchanges.

SEC. 501. HEADWATERS FOREST AND ELK RIVER PROPERTY ACQUISITION.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the ''Headwaters Forest'', approximately 1,125 acres referred to as the ''Elk Head Forest'', and approximately 9,600 acres referred to as the ''Elk River Property'', which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter ''United States''), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled ''Dependent Resurvey and Tract Survey'', as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the ''Headwaters Forest''. Any funds appropriated by the Federal government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) EFFECTIVE PERIOD OF AUTHORIZATION.—The authorization in subsection (a) expires March 1, 1999 and shall become effective only—

(1) when the State of California provides a $130,000,000 contribution for the transaction;

(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;

(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96–257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96–CS–1057 (Cal. Super. Ct.);

(4) when the incidental take permit under Section 10(a) of the Endangered Species Act (based upon a multi-species Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;

(5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;

(6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;

(7) after an environmental impact statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969; and

(8) when adequate provision has been made for public access to the property.

(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in section 501(a) may differ from the value contained in the appraisal required by section 501(b)(5) if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) HABITAT CONSERVATION PLAN.

(1) APPLICABLE STANDARDS.—Within 60 days after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act and any other species used to develop the habitat conservation plan (hereinafter ''HCP'') and the section 10(a) incidental take permit for the Pacific Lumber Company land.

(2) REPORT.—If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act for the transaction authorized by subsection (a), and the permit is not issued, then the U.S. Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP STANDARDS.—If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multi-species HCPs than would otherwise be established under existing law.

(e) PAYMENT TO HUMBOLDT COUNTY.—Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a $10,000,000 direct payment to Humboldt County, California.

(f) PAYMENT IN LIEU OF TAXES.—The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31 of the United States Code.

(g) OUT-YEAR BUDGET LIMITATIONS.—The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a)—

(1) At least fifty percent of the total funds for management of such lands above the annual level of $100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-federal sources.

(2) Subject to appropriations, the authorized annual federal funding for management of such land is $300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other non-governmental entities for the purpose of management of the Headwaters Forest.

(h) HEADWATERS FOREST MANAGEMENT TRUST.—The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust (''Trust'') for the management of the Headwaters Forest as follows:

(1) MANAGEMENT AUTHORITY.—The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first set of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be non-voting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) OPERATIONS.—The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) MANAGEMENT PLAN.—

(1) IN GENERAL—A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) PLAN.—The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) COMPLIANCE.—The National Environmental Policy Act shall apply to the development and implementation of the management plan.

(j) COOPERATIVE MANAGEMENT.—

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate state lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal or state employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

SEC. 502. PROTECTION AND PRESERVATION OF YELLOWSTONE NATIONAL PARK—ACQUISITION OF CROWN BUTTE MINING INTERESTS.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $65,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park.

(b) CONDITIONS OF ACQUISITION AUTHORITY.—The Secretary of Agriculture may not acquire the District Property until:

(1) the parties to the Agreement have entered into and lodged with the United States District Court for the District of Montana a consent decree as required under the Agreement that requires, among other things, Crown Butte to perform response or restoration actions (or both) or pay for such actions in accordance with the Agreement;

(2) an appraisal of the District Property has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations;

(3) after the Secretary of Agriculture issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations for the land and property to be acquired by the Federal government; and

(4) the applicable requirements of the National Environmental Policy Act have been met.

(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park may exceed the value contained in the appraisal required by section 502(b)(2) if the Secretary of Agriculture certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) DEPOSIT IN ACCOUNT.—Immediately upon receipt of payments from the United States, Crown Butte shall deposit $22,500,000 in an interest bearing account in a private, federally chartered financial institution that, in accordance with the Agreement, shall be—

(1) acceptable to the Secretary of Agriculture; and

(2) available to carry out response and restoration actions.

The balance of amounts remaining in such account after completion of response and restoration actions shall be available to the Secretary of Agriculture for use in the New World Mining District for any environmentally beneficial purpose otherwise authorized by law.

(e) MAINTENANCE AND REHABILITATION OF BEARTOOTH HIGHWAY.—

(1) MAINTENANCE.—The Secretary of Agriculture shall, consistent with the funds provided herein, be responsible for—

(A) snow removal on the Beartooth Highway from milepost 0 in Yellowstone National Park, into and through Wyoming, to milepost 43.1 on the border between Wyoming and Montana; and

(B) pavement preservation, in conformance with a pavement preservation plan, on the Beartooth Highway from milepost 8.4 to milepost 24.5.

(2) REHABILITATION.—The Secretary of Agriculture shall be responsible for conducting rehabilitation and minor widening of the portion of

the Beartooth Highway in Wyoming that runs from milepost 24.5 to milepost 43.1.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture—

(A) for snow removal and pavement preservation under paragraph (1), $2,000,000; and

(B) for rehabilitation under paragraph (2), $10,000,000.

(4) AVAILABILITY OF FUNDS.—Within 30 days of the acquisition of lands and interests in lands pursuant to this section, the funds authorized in subsection (e)(3) and appropriated herein for that purpose shall be made available to the Secretary of Agriculture.

(f) RESPONSE AND RESTORATION PLAN.—The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall approve or prepare a plan for response and restoration activities to be undertaken pursuant to the Agreement and a quarterly accounting of expenditures made pursuant to such plan. The plan and accountings shall be transmitted to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

(g) MAP.—The Secretary of Agriculture shall provide to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, a map depicting the acreage to be acquired pursuant to this section.

(h) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means the agreement in principle, concerning the District Property, entered into on August 12, 1996 by Crown Butte Mines, Inc., Crown Butte Resources Ltd., Greater Yellowstone Coalition, Northwest Wyoming Resource Council, Sierra Club, Gallatin Wildlife Association, Wyoming Wildlife Federation, Montana Wildlife Federation, Wyoming Outdoor Council, Beartooth Alliance, and the United States of America, with such other changes mutually agreed to by the parties;

(2) BEARTOOTH HIGHWAY.—The term ''Beartooth Highway'' means the portion of United States Route 212 that runs from the northeast entrance of Yellowstone National Park near Silver Gate, Montana, into and through Wyoming to Red Lodge, Montana.

(3) CROWN BUTTE.—The term ''Crown Butte'' means Crown Butte Mines, Inc. and Crown Butte Resources Ltd., acting jointly.

(4) DISTRICT PROPERTY.—The term ''District Property'' means the portion of the real property interests specifically described as District Property in appendix B of the Agreement.

(5) NEW WORLD MINING DISTRICT.—The term ''New World Mining District'' means the New World Mining District as specifically described in appendix A of the Agreement.

SEC. 503. CONVEYANCE TO STATE OF MONTANA

(a) CONVEYANCE REQUIREMENT.—Not later than January 1, 2001, but not prior to 180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Montana, without consideration, all right, title, and interest of the United States in and to—

(1) $10,000,000 in federal mineral rights in the State of Montana agreed to by the Secretary of the Interior and the Governor of Montana through negotiations in accordance with paragraph (b); or

(2) all federal mineral rights in the tracts in Montana depicted as Otter Creek number 1, 2, and 3 on the map entitled ''Ashland Map''.

(b) NEGOTIATIONS.—The Secretary of the Interior shall promptly enter into negotiations with the Governor of Montana for purposes of paragraph (a)(1) to determine and agree to mineral rights owned by the United States having a fair market value of $10,000,000.

(c) FEDERAL LAW NOT APPLICABLE TO CONVEYANCE.—Any conveyance under paragraph (a) shall not be subject to the Mineral Leasing Act (20 U.S.C. 181 et seq.).

(d) AVAILABILITY OF MAP.—The Secretary of the Interior shall keep the map referred to in paragraph (a)(2) on file and available for public inspection in appropriate offices of the Department of the Interior located in the District of Columbia and Billings, Montana, until January 1, 2001.

(3) CONVEYANCE DEPENDENT UPON ACQUISITION.—No conveyance pursuant to paragraph (a) shall take place unless the acquisition authorized in section 502(a) is executed.

SEC. 504. The acquisitions authorized by sections 501 and 502 of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act or (2) enactment of separate authorizing legislation that modifies sections 501, 502, or 503 of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180 day period referenced in this section shall be extended by one day.

SEC. 505. The Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 78 Stat. 897) (16 U.S.C. 460l–4—460l–11) is amended by moving section 13 (as added by section 1021(b) of the Omnibus Parks and Public Lands Management Act of 1996; 110 Stat. 4210) so as to appear in title I of that Act following section 12.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

SEC. 601. SHORT TITLE.—This Act may be cited as the ''Forest Resources Conservation and Shortage Relief Act of 1997''.

SEC. 602. (a) USE OF UNPROCESSED TIMBER—LIMITATION ON SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER FROM PRIVATE LAND.—Section 490 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''paragraph (3) and'' after ''provided in''; and

(B) by adding at the end the following:

''(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, paragraph 1 shall apply only if—

''(A) the private lands referred to in paragraph (1) are owned by the person; or

''(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person's choosing.'';

(2) in subsection (c)—

(A) in the subsection heading, by striking ''APPROVAL OF'';

(B) in paragraph (2)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''APPLICATION''; and

(ii) in subparagraph (A), by inserting ''(except private land located in the north-western private timber open market area)'' after ''lands'';

(C) in paragraph (3)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE OF THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—(A) IN GENERAL''; after ''APPROVAL''; and

(ii) by striking the last sentence of paragraph (3) and adding at the end the following:

''(B) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN IDAHO.—Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.

''(C) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN STATES OTHER THAN IDAHO.—Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.

''(D) AREA NOT INCLUDED.—In deciding whether to approve or disapprove an application, the Secretary shall not—

''(i) consider land located in the northwestern private timber open market area; or

''(ii) condition approval of the application on the inclusion of any such land in the applicant's sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.'';

(D) in paragraph (4), in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''APPLICATION'';

(E) in paragraph (5), in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''DETERMINATIONS''; and

(F) by adding at the end the following:

''(6) SOURCING AREAS FOR PROCESSING FACILITIES LOCATED IN THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA—

''(A) ESTABLISHMENT.—In the northwestern private timber open market area—

''(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;

''(ii) the radius of the circle—

''(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and

''(II) shall be determined solely by the sourcing area applicant or holder;

''(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;

''(iv) the 24-month requirement in paragraph (1)(A) shall not apply;

''(v) a sourcing area holder—

''(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

''(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

''(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

''(B) TRANSITION.—With respect to a portion of a sourcing area established before the date of enactment of this paragraph that contains Federal timber under contract before that date and is outside the boundary of a new sourcing area established under subparagraph (A)—

''(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

''(ii) unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.

''(7) RELINQUISHMENT AND TERMINATION OF SOURCING AREAS.—

''(A) IN GENERAL.—A sourcing area may be relinquished at any time.

''(B) EFFECTIVE DATE.—A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.

''(C) EXPORTABILITY.—

''(i) IN GENERAL.—On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.

''(ii) NO RESTRICTION.—The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area.''; and

(3) by adding at the end the following:

''(d) DOMESTIC TRANSPORTATION AND PROCESSING OF PRIVATE TIMBER.—Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.''.

(b) RESTRICTION OF EXPORTS OF UNPROCESSED TIMBER FROM STATE AND PUBLIC LAND.—Section 491(b)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)(2)) is amended—

(1) by striking ''the following'' and all that follows through ''(A) The Secretary'' and inserting ''the Secretary'';

(2) by striking ''during the period beginning on June 1, 1993, and ending on December 31, 1995'' and inserting ''as of the date of enactment of the Forest Resources Conservation and Shortage Relief Act of 1997''; and

(3) by striking subparagraph (B).

SEC. 603. MONITORING AND ENFORCEMENT.—Section 492 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d) is amended—

(1) in subsection (c)(2), by adding at the end the following:

(C) MITIGATION OF PENALTIES.—

''(i) IN GENERAL.—The Secretary concerned—

''(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and

''(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—

''(aa) reduce the penalty;

''(bb) not impose the penalty; or

''(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

''(ii) CONTRACTURAL REMEDIES.—In the case of a minor violation of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.''; and

(2) in subsection (d)(1)—

(A) by striking ''The head'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), the head''; and

(B) by adding at the end the following:

''(B) PREREQUISITES FOR DEBARMENT.—

''(i) IN GENERAL.—No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

''(ii) WITHHOLDING OF AWARDS DURING DEBARMENT PROCEEDINGS.—The head of an appropriate Federal department or agency may withhold an award under this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.''.

SEC. 604. DEFINITIONS.—Section 493 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620e) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (2) the following:

''(3) MINOR VIOLATION.—The term 'minor violation' means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than $10,000.

''(4) NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—The term 'northwestern private timber open market area' means the State of Washington.'';

(3) in subparagraph (B)(ix) of paragraph (9) (as redesignated by paragraph (1))—

(A) by striking ''Pulp logs or cull logs'' and inserting ''Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs'';

(B) by inserting ''primary'' before ''purpose''; and

(C) by striking the period at the end and inserting: '', or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.''; and

(4) by adding at the end the following:

''(11) VIOLATION.—The term 'violation' means a violation of this Act (including a regulation issued to implement this Act) with regard to a course of action, including—

''(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

''(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.''.

SEC. 605. REGULATIONS.—Section 495(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620f(a)) is amended—

(1) by striking ''The Secretaries'' and inserting the following:

''(1) AGRICULTURE AND INTERIOR.—The Secretaries'';

(2) by striking ''The Secretary of Commerce'' and inserting the following:

''(2) COMMERCE.—The Secretary of Commerce''; and

(3) by striking the last sentence and inserting the following:

''(3) DEADLINE.—

''(A) IN GENERAL.—Except as otherwise provided in this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

''(B) The regulations and guidelines issued under this title that were in effect prior to September 8, 1995 shall remain in effect until new regulations and guidelines are issued under subparagraphs (A).

''(4) PAINTING AND BRANDING.—

''(A) IN GENERAL.—The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

''(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

''(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

''(I) would be exported in violation of this title; or

''(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of this title.

''(B) MINIMUM SIZE. The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

''(i) the face of a log that is less than 7 inches in diameter; or

''(ii) unprocessed timber that is less than 8 feet in length or less than ⅓ sound wood.

''(C) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive log painting and branding requirements—

''(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

''(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

''(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under this title.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.

(D) FACTORS.—In making a determination under this paragraph, the Secretary concerned shall consider—

''(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

''(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

''(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

''(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

''(5) REPORTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

''(B) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive documentation and reporting requirements for a person if—

''(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

''(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.''.

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

TITLE VII—MICCOSUKEE SETTLEMENT

SEC. 701. SHORT TITLE.—This title may be cited as the ''Miccosukee Settlement Act of 1997''.

SEC. 702. CONGRESSIONAL FINDINGS.—Congress finds that:

(1) There is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Tribe that involves the taking of certain tribal lands in connection with the construction of highway Interstate 75 by the Florida Department of Transportation.

(2) The pendency of the lawsuit referred to in paragraph (1) clouds title of certain lands used in the maintenance and operation of the highway and hinders proper planning for future maintenance and operations.

(3) The Florida Department of Transportation, with the concurrence of the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida, and the Miccosukee Tribe have executed an agreement for the purpose of resolving the dispute and settling the lawsuit.

(4) The agreement referred to in paragraph (3) requires the consent of Congress in connection with contemplated land transfers.

(5) The Settlement Agreement is in the interest of the Miccosukee Tribe, as the Tribe will receive certain monetary payments, new reservation lands to be held in trust by the United States, and other benefits.

(6) Land received by the United States pursuant to the Settlement Agreement is in consideration of Miccosukee Indian Reservation lands lost by the Miccosukee Tribe by virtue of transfer to the Florida Department of Transportation under the Settlement Agreement.

(7) The lands referred to in paragraph (6) as received by the United States will be held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands in compensation for the consideration given by the Tribe in the Settlement Agreement.

(8) Congress shares with the parties to the Settlement Agreement a desire to resolve the dispute and settle the lawsuit.

SEC. 703. DEFINITIONS.—In this title:

(1) BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENTS TRUST FUND.—The term ''Board of Trustees of the Internal Improvements Trust Fund'' means the agency of the State of Florida holding legal title to and responsible for trust administration of certain lands of the State of Florida, consisting of the Governor, Attorney General, Commissioner of Agriculture, Commissioner of Education, Controller, Secretary of State, and Treasurer of the State of Florida, who are Trustees of the Board.

(2) FLORIDA DEPARTMENT OF TRANSPORTATION.—The term ''Florida Department of Transportation'' means the executive branch department and agency of the State of Florida that—

(A) is responsible for the construction and maintenance of surface vehicle roads, existing pursuant to section 20.23, Florida Statutes; and

(B) has the authority to execute the Settlement Agreement pursuant to section 334.044, Florida Statutes.

(3) LAWSUIT.—The term ''lawsuit'' means the action in the United States District Court for the Southern District of Florida, entitled Miccosukee Tribe of Indians of Florida v. State of Florida and Florida Department of Transportation, et al., docket No. 6285–Civ–Paine.

(4) MICCOSUKEE LANDS.—The term ''Miccosukee lands'' means lands that are—

(A) held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands; and

(B) identified pursuant to the Settlement Agreement for transfer to the Florida Department of Transportation.

(5) MICCOSUKEE TRIBE; TRIBE.—The terms ''Miccosukee Tribe'' and ''Tribe'' mean the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT; AGREEMENT.—The terms ''Settlement Agreement'' and ''Agreement'' mean the assemblage of documents entitled ''Settlement Agreement'' (with incorporated exhibits) that—

(A) addresses the lawsuit; and

(B)(i) was signed on August 28, 1996, by Ben G. Watts (Secretary of the Florida Department of Transportation) and Billy Cypress (Chairman of the Miccosukee Tribe); and

(ii) after being signed, as described in clause (i), was concurred in by the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida.

(8) STATE OF FLORIDA.—The term ''State of Florida'' means—

(A) all agencies or departments of the State of Florida, including the Florida Department of Transportation and the Board of Trustees of the Internal Improvements Trust Fund; and

(B) the State of Florida as a governmental entity.

SEC. 704. RATIFICATION.—The United States approves, ratifies, and confirms the Settlement Agreement.

SEC. 705. AUTHORITY OF SECRETARY.—As Trustee for the Miccosukee Tribe, the Secretary shall—

(1)(A) aid and assist in the fulfillment of the Settlement Agreement at all times and in a reasonable manner; and

(B) to accomplish the fulfillment of the Settlement Agreement in accordance with subparagraph (A), cooperate with and assist the Miccosukee Tribe;

(2) upon finding that the Settlement Agreement is legally sufficient and that the State of Florida has the necessary authority to fulfill the Agreement—

(A) sign the Settlement Agreement on behalf of the United States; and

(B) ensure that an individual other than the Secretary who is a representative of the Bureau of Indian Affairs also signs the Settlement Agreement;

(3) upon finding that all necessary conditions precedent to the transfer of Miccosukee land to the Florida Department of Transportation as provided in the Settlement Agreement have been or will be met so that the Agreement has been or will be fulfilled, but for the execution of that land transfer and related land transfers—

(A) transfer ownership of the Miccosukee land to the Florida Department of Transportation in accordance with the Settlement Agreement, including in the transfer solely and exclusively that Miccosukee land identified in the Settlement Agreement for transfer to the Florida Department of Transportation; and

(B) in conjunction with the land transfer referred to in subparagraph (A), transfer no land other than the land referred to in that subparagraph to the Florida Department of Transportation; and

(4) upon finding that all necessary conditions precedent to the transfer of Florida lands from the State of Florida to the United States have been or will be met so that the Agreement has been or will be fulfilled but for the execution of that land transfer and related land transfers, receive and accept in trust for the use and benefit of the Miccosukee Tribe ownership of all land identified in the Settlement Agreement for transfer to the United States.

SEC. 706. MICCOSUKEE INDIAN RESERVATION LANDS.—The lands transferred and held in trust for the Miccosukee Tribe under section 705(4) shall be Miccosukee Indian Reservation lands.

SEC. 707. MISCELLANEOUS.—(a) RULE OF CONSTRUCTION.—Nothing in this Act or the Settlement Agreement shall—

(1) affect the eligibility of the Miccosukee Tribe or its members to receive any services or benefits under any program of the Federal Government; or

(2) diminish the trust responsibility of the United States to the Miccosukee Tribe and its members.

(b) NO REDUCTIONS IN PAYMENTS.—No payment made pursuant to this Act or the Settlement Agreement shall result in any reduction or denial of any benefits or services under any program of the Federal Government to the Miccosukee Tribe or its members, with respect to which the Tribe or the members of the Tribe are entitled or eligible because of the status of—

(1) the Miccosukee Tribe as a federally recognized Indian tribe; or

(2) any member of the Miccosukee Tribe as a member of the Tribe.

(c) TAXATION.—

(1) IN GENERAL.—

(A) MONIES.—None of the monies paid to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(B) LANDS.—None of the lands conveyed to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(2) PAYMENTS AND CONVEYANCES NOT TAXABLE EVENTS.—No payment or conveyance referred to in paragraph (1) shall be considered to be a taxable event.

And the Senate agree to the same.

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, Jr.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,

Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,

BARBARA BOXER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2107 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 105–163 or Senate Report 105–56 which are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $583,270,000 for management of lands and resources instead of $581,591,000 as proposed by the House and $578,851,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Alaska Gold Rush Centennial task force, $500,000 for the joint Department of Defense land cover mapping project in Alaska, $200,000 for threatened and endangered species for the Virgin River Basin recovery plan, $500,000 for recreation resources management, $2,100,000 for the National Petroleum Reserve—Alaska, $700,000 for the Alaska resources library and information services, $2,334,000 for Alaska conveyance and $1,000,000 for ALMRS. Decreases to the amount proposed by the House include $1,000,000 for prescribed fire, $2,774,000 for wild horse and burro management, $250,000 for wildlife management, $500,000 for a recreation fees scoring adjustment, $231,000 for wilderness management, and $1,000,000 for law enforcement. The managers concur with the Senate's proposed distribution of funds in the Mining Law Administration category.

Within the increased funds provided for recreation resource management, $200,000 is provided for the Lewis and Clark Trail, $100,000 is provided for the Iditarod National Historic Trail, $100,000 is provided for the De Anza, California, Mormon Pioneer, Nez Perce, Oregon, and Pony Express National Historic Trails, and the Pacific Crest and Continental Divide National Scenic Trails, and $100,000 is provided as a general increase.

The managers have reduced the Bureau's oil and gas management program by a net $450,000, consistent with the Administration's requested program decrease. This decrease is made up of a $50,000 increase for Grand Staircase activities and a $500,000 decrease related to efficiencies in lease processing in Alaska, Arizona, and Idaho. In agreeing to the requested budget reduction, the managers direct the Bureau not to delay the processing of any lease application in these States in 1998. The managers expect the Bureau to request funding sufficient to meet the Bureau's responsibilities for oil and gas management activities on Federal lands in each of these States as warranted.

After reviewing the Department's soda ash royalty study, the managers are concerned that the Department was unresponsive to the question relating to the appropriate method of setting Federal royalty rates when the only comparable rates are the product of a monopoly. The managers will watch carefully how the Department deals with these issues in the future.

The managers support efforts of the land management agencies to consolidate activities and facilities at the field level as a means of achieving savings and providing improved services to the public. The managers support the joint BLM-Forest Service trading post pilot program, which allows the Secretaries of the Interior and Agriculture to make reciprocal delegations of authorities, duties and responsibilities to promote customer service and efficiency, with the understanding that nothing will change the applicability of any public law or regulation to lands administered by the BLM or the Forest Service.

The managers seek additional information on BLM's activities dealing with the acquisition of water rights. By November 30, 1998, the Bureau shall provide a report detailing its short and long-term plans for acquiring non-reserved water rights and any actions dealing with Federal reserved rights.

The managers encourage the Bureau to cooperate fully with the Umpqua River Basin land exchange project group as authorized in section 1028 of Public Law 104–333.

Amendment No. 2: Earmarks $27,650,000 for mining law administration program operations as proposed by the Senate instead of $27,300,000 as proposed by the House.

Amendment No. 3: Restates the final appropriation amount for management of lands and resources as $583,270,000.

WILDLAND FIRE MANAGEMENT

Amendment No. 4: Appropriates $280,103,000 for wildland fire management as proposed by the House instead of $282,728,000 as proposed by the Senate.

Within the funds provided for preparedness, $700,000 is to fund the startup and first year of operating costs for a type I hotshot crew in Alaska to be managed by the Alaska Fire Service as an intertribal, interagency hotshot crew; and $1,925,000 is provided for redevelopment of the obsolete interagency fire operations center in Billings, MT.

Amendment No. 5: Earmarks $6,950,000 for renovation or construction of fire facilities as proposed by the Senate instead of $5,025,000 as proposed by the House.

CENTRAL HAZARDOUS MATERIALS FUND

Amendment No. 6: Appropriates $12,000,000 for the central hazardous materials fund as proposed by the House instead of $14,900,000 as proposed by the Senate.

CONSTRUCTION

Amendment No. 7: Appropriates $3,254,000 for construction as proposed by the House instead of $3,154,000 as proposed by the Senate.

PAYMENTS IN LIEU OF TAXES

Amendment No. 8: Appropriates $120,000,000 for payments in lieu of taxes instead of $113,500,000 as proposed by the House and $124,000,000 as proposed by the Senate.

LAND ACQUISITION

Amendment No. 9: Appropriates $11,200,000 for land acquisition instead of $12,000,000 as proposed by the House and $8,600,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Arizona Wilderness, AZ	$700,000
Blanca Wildlife Habitat, CO	550,000
Bodie Bowl, CA	1,000,000
Lake Fork of the Gunnison, CO	900,000
Otay Mountains, CA	1,000,000
Santa Rosa Mountains, CA	1,000,000
West Eugene Wetlands, OR	300,000
Western Riverside County, CA	1,000,000
Washington County Desert Tortoise, UT	1,000,000
Emergencies/hardships/inholdings	750,000
Acquisition management	3,000,000
Total	11,200,000

FOREST ECOSYSTEMS HEALTH AND RECOVERY (REVOLVING FUND, SPECIAL ACCOUNT)

Amendment No. 10: Inserts language proposed by the Senate expanding BLM's flexibility to complete forest ecosystem health projects. The House had no similar provision.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 11: Appropriates $594,842,000 for resource management instead of $591,042,000 as proposed by the House and $585,064,000 as proposed by the Senate. Increases to the amount proposed by the House include $800,000 in candidate conservation, of which $400,000 is for the Alabama sturgeon and $400,000 is for the Preble's Meadow Jumping Mouse; $300,000 in consultation as a general increase; $300,000 in recovery for a wolf reintroduction study on the Olympic Peninsula; $1,000,000 in habitat conservation of which $50,000 is for the Middle Rio Grande/Bosque program, $50,000 is for Platte River studies, $100,000 is to establish a Cedar City ecological services office, $750,000 is for Washington salmon enhancement and $50,000 is for the Vermont partners program; $1,000,000 for Salton Sea recovery planning and for bioremediation efforts in the New River in cooperation with the U.S. Geological Survey, contingent on matching funds from the State of California; $250,000 in migratory bird management for the North American waterfowl management plan; $500,000 in hatchery operations and maintenance for endangered species recovery, including operation of the Mora hatchery in New Mexico; $750,000 in fish and wildlife management of which $100,000 is for Yukon River escapement monitoring and research, $300,000 is for Atlantic salmon conservation, $50,000 is for the regional park processing center and $300,000 is for whirling disease research; $200,000 in international affairs for the Caddo Lake Institute scholars program; and $1,000,000 for the National Conservation Training Center. Decreases to the House proposed level include $300,000 in consultation for the Olympic Peninsula wolf recovery program (funded under the recovery program); $500,000 in habitat conservation, of which $250,000 is for assistance to private landowners and $250,000 is for the coastal program in Texas; $1,000,000 in refuge operations and maintenance; and $500,000 in fish and wildlife management for habitat restoration.

The managers agree to the following:

1. Within the consultation program, $560,000 should be used for the Iron County habitat conservation plan, contingent on matching non-Federal funding.

2. The increase for law enforcement should be used, in part, to improve the Service's ability to prevent illegal bear poaching and the smuggling of bear viscera, but is not limited to that activity.

3. The Chicago Wetlands Office should be funded at the same level as in fiscal year 1997.

4. In allocating resources for refuge operations and maintenance, the Service should seek to balance competing refuge uses consistent with the National Wildlife Refuge Systems Improvement Act of 1997.

5. There is no earmark within available funds for the Washington State regional fisheries enhancement group initiative. The

$750,000 in the habitat conservation program for Washington salmon enhancement efforts addresses that initiative. These funds should be transferred, in the form of a block grant, to the Washington Department of Fish and Wildlife to support the volunteer efforts of the Regional Fisheries Enhancement Group program.

6. Within habitat conservation, $23,839,000 is for project planning.

7. With respect to the double-crested cormorant depredation order, the managers understand that the comment period on the proposed rule has closed and the Service anticipates issuing the final rule in 45–60 days. The managers make no assumptions about the content of that rule.

8. The House takes no position on the issue of overgrazing of bighorn sheep on the confederated Salish and Kootenai reservations.

9. With respect to tribal management takeover of the Moise Bison Range, the Service should continue to work with the Salish and Kootenai tribes on appropriate functions for compacting by the tribes.

10. With respect to hunting season extensions and the impact on waterfowl, the Service should examine existing data and consult with the States and with the International Association of Fish and Wildlife Agencies to determine what changes should be made to the existing methodology. The Service should report the results of this effort to the Committees, including a discussion of the pros and cons of alternatives to the current procedures.

11. In preparing its report on agriculture depredations caused by dusky Canada geese, the Service should consider other areas, in addition to the Pacific Northwest, where this is known to be a problem.

12. Of the funds provided for whirling disease research, $700,000 should be used for work with the National Partnership on the Management of Wild and Native Cold Water Fisheries. The Service is encouraged to use other funds available for fish health to continue and expand the National Wild Fish Health Survey.

13. With respect to the Pacific Northwest forest plan, unallocated program increases provided by the conference agreement should be applied to forest plan activities in proportion to the increases for forest plan activities included in the budget request for that program.

14. The Salton Sea recovery plan should be developed by the Service in coordination with the State of California, the U.S. Geological Survey, the Bureau of Reclamation and the Environmental Protection Agency. The plan should be submitted to the Committees and should address the appropriate division of responsibilities and funding among all involved agencies.

15. Future increases in the Service's budget for the Salton Sea should be considered in the context of the Service's National priorities. The Service should continue to work with the State of California to ensure that the State remains an active participant in the conduct and funding of recovery efforts.

16. The managers encourage the U.S. Fish and Wildlife Service to include the Arid Lands Ecology Reserve in the Earth Stewards Program, and to provide the necessary resources to support the efforts of the Department of Energy and other public and private sector organizations in order to accelerate the formation of the Partnership for Arid Lands Stewardship (PALS).

The managers are aware of recently identified, near-term needs in the Atchafalaya Basin region of Louisiana, including personnel needs for the Southeast Louisiana refuge system and wildlife management shortfalls in and around the Atchafalaya Basin and at the Mandalay NWR, LA. To the extent practicable, the Service should address these needs within the increase provided for refuge operations and maintenance in fiscal year 1998. The managers expect the Service, in consultation with State and local entities, including landowners, to study habitat protection needs in the entire Atchafalaya Basin region and to report to the Committees on the results of those consultations prior to submission of the fiscal year 1999 budget.

The managers understand that the translocation of a portion of the Adak caribou herd onto privately owned islands in Alaska may provide long term relief for subsistence users in the Alaska Peninsula region. Since the filing of the Senate report, it has come to the managers' attention that at least two such islands have historically sustained indigenous caribou herds and therefore a suitable habitat study is not necessary. The managers encourage the Service to enter into discussions with subsistence users of the Alaska Peninsula region to explore a potential partnership arrangement to establish new caribou herds on Deere and Unga Islands to provide meat sources for Native people.

Amendment No. 12: Restores language proposed by the House and stricken by the Senate which earmarks an amount not to exceed $5,190,000 for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended, and inserts language proposed by the Senate making a technical correction to the existing statutory fee authority for the National Conservation Training Center. The House had no similar provision on the National Conservation Training Center.

As requested by the Department of the Interior the managers reluctantly have agreed to limit statutorily the funds for the endangered species listing program. The managers continue to believe that a long term solution to the problems in the ESA program should be dealt with through the reauthorization process, and regret that another year has passed without substantial progress by the Administration.

Amendment No. 13: Deletes language proposed by the Senate prohibiting overhead charges by the Service on funds transferred from the Bureau of Reclamation for the Upper Colorado River recovery program. The House had no similar provision.

The managers expect the Service to keep any necessary administrative charges to an absolute minimum, and to provide a report to the Committees that justifies any overhead charges on funds transferred to the Upper Colorado River recovery program.

CONSTRUCTION

Amendment No. 14: Appropriates $45,006,000 for construction instead of $40,256,000 as proposed by the House and $42,053,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Audubon Institute, LA	$2,000,000
Baker Island NWR, HI (assessment/site investigation)	250,000
Blackwater NWR, MD (administrative building)	335,000
Bozeman FTC, MT (laboratory building planning and design)	606,000
Crab Orchard NWR, IL (rehabilitate sewage treatment facilities)	1,659,000
Craig Brook NFH, ME (station rehabilitation/final phase)	3,500,000
Creston NFH, MT (Jessup Mill Pond Dam)	1,500,000
Great Swamp NWR, NJ (disposal assessment/site investigation)	250,000
Horicon NWR, WI (replace boardwalk)	425,000
John Hay Estate, NH (rehabilitation)	1,000,000
Keauhou Bird Conservation Center, HI (complete construction)	1,000,000
Kodiak NWR, AK (Camp Island renovations)	150,000
Merced NWR, CA (water distribution)	2,548,000
National Elk Refuge, WY (irrigation system)	400,000
Orangeburg NFH, SC (rehabilitate drainage canal)	833,000
Patuxent NWR, MD (Cash Lake Dam)	2,515,000
Region 2 (hazardous materials/solid waste cleanup)	445,000
Santa Ana NWR, TX (road rehabilitation)	1,208,000
Shiawassee NWR, MI (bridge rehabilitation)	520,000
Southest LA refuges, LA (health & safety)	500,000
Southwest FTC, NM (Mora hatchery)	2,000,000
St. Marks NWR, FL (replace 6 bridges)	469,000
St. Vincent NWR, FL (Outlet Creek bridge)	186,000
Steigerwald NWR, WA (trail construction and access)	840,000
Tennessee NWR, TN (road)	2,500,000
Tennessee NWR, TN (2 bridges)	139,000
Togiak NWR, AK (residence)	335,000
Turnbull NWR, WA (building)	843,000
Upper Miss. NW&FR, IL (headquarters construction)	510,000
WB Jones Partnership, NC (headquarters design and construction)	1,900,000
Wichita Mountains WR, OK (road rehabilitation)	1,840,000
Wichita Mountains WR, OK (Grama Lake & Comanche Dams)	4,800,000
Woodbridge NWR, VA (rehabilitation)	100,000
Bridge safety inspection	495,000
Dam safety inspection	495,000
Construction management	5,910,000
Total	45,006,000

The managers agree to the following:

1. $850,000 in unobligated balances from completed projects should be used for the design, manufacture and installation of educational displays and furnishings for the Environmental Education Center at the Silvio O. Conte NWR, MA. The Service should notify the Committees of the proposed offsets before proceeding with the reprogramming of funds.

2. Funding provided herein represents the completion of the Federal commitment for the Audubon Institute, LA and the Walter B. Jones Partnership for the Sounds, NC projects.

3. No funds are provided for Bear River NWR, UT with the understanding that there is currently a large unobligated balance of funds provided in previous fiscal years that will enable dike work to continue in fiscal year 1998.

4. The Committees will consider a reprogramming of funds for planning and design of the National Black Footed Ferret Conservation Center once the Service has determined a site for the Center.

5. Prior to proceeding with the Togiak NWR, AK housing project, the Service should

certify that there is insufficient rental housing in the Dillingham area that meets Service requirements and is suitable for refuge personnel.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

Amendment No. 15: Appropriates $4,228,000 for the natural resource damage assessment fund instead of $4,128,000 as proposed by the House and $4,328,000 as proposed by the Senate.

The managers agree that changes to the management structure for the natural resource damage assessment program in fiscal year 1998 should be made consistent with the level of funding provided. The Committees will consider any more ambitious restructuring in the context of Service-wide priorities in the fiscal year 1999 budget.

Amendment No. 16: Amends fiscal year 1994 appropriations language to permit transfers of funds to Federal trustees and payments to non-Federal trustees to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities, and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, as proposed by the Senate. The House had no similar provision.

LAND ACQUISITION

Amendment No. 17: Appropriates $62,632,000 for land acquisition instead of $53,000,000 as proposed by the House and $57,292,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Archie Carr NWR, FL	$2,000,000
Attwater Prairie Chicken NWR, TX	1,000,000
Back Bay NWR, VA	2,000,000
Balcones Canyonlands NWR, TX	700,000
Big Muddy NFWR, MO	1,000,000
Bon Secour NWR (Izard tract), AL	3,000,000
Canaan Valley NWR, WV	3,000,000
Cape May NWR, NJ	3,000,000
Clarks River NWR, KY	2,000,000
Crocodile Lake NWR, FL	400,000
Cypress Creek NWR, IL	750,000
Don Edwards NWR (Bair Island), CA	2,000,000
Edwin B. Forsythe NWR (including the Zell tract), NJ	2,000,000
Great Swamp NWR, JN	750,000
Julia B. Hansen NWR, WA	300,000
Kodiak NWR, AK	600,000
Lower Rio Grande Valley NWR, TX	900,000
Mashpee NWR (including the Bufflehead Bay tract), MA	332,000
Minnesota Valley NWR (Kelly tract), MN	2,300,000
Nisqually NWR (Black River unit), WA	1,500,000
Ohio River Islands NWR, PA–WV–OH–KY	500,000
Ottawa NWR, OH	1,000,000
Patoka River NWR, IN	500,000
Petit Manan NWR, ME	1,000,000
Rachel Carson NWR, ME	1,100,000
Rappahannock River Valley NWR, VA	2,000,000
Rhode Island complex, RI	500,000
San Diego NWR, CA	3,000,000
Silvio O. Conte NWR (including Pondicherry), CT–MA–NH–VT	1,000,000
Southeast Louisiana refuges, LA	2,500,000
Stewart B. McKinney NWR (Great Meadows Salt Marsh), CT	1,100,000
Stillwater NWR, NV	1,000,000
Waccamaw NWR, SC	2,000,000
Wallkill River NWR (including Papakeeting Creek), NJ	1,000,000
Wertheim NWR (including Southaven), NY	2,290,000
Western Montana project, MT	1,000,000
Acquisition management	8,860,000
Emergency/hardships	1,000,000
Exchanges	1,000,000
Inholdings	750,000
Total	62,632,000

The managers note that the Service is preparing a draft environmental assessment on the feasibility of establishing a National wildlife refuge in the Kankakee area of Indiana and Illinois. That draft should be completed and distributed for comment later this fall and final NEPA documentation will not be completed until next year. The managers understand that any land acquisition for such a refuge will not proceed without Congressional approval through the appropriations process.

Within 90 days, the Fish and Wildlife Service shall report to the Appropriations Committees if there is a willing seller of the Bolsa Chica Mesa in Huntington Beach, CA, the cost of an appraisal of the mesa, the estimated cost of acquisition, and opportunities for public-private partnerships.

The managers understand that the estimated total cost of the Bair Island acquisition at Don Edwards NWR in California is $15,000,000. The managers are aware that the Peninsula Open Space Trust has committed to raising $5,000,000 towards this total purchase price and the managers encourage the State to give a contribution of up to $2,500,000.

The managers have not provided funds for acquisition of the Shadmoor property at Amagansett NWR due to the large disparity between the appraised value and the current sale price, and the lack of matching funds. The managers remain interested in the Shadmoor acquisition, however, and will consider allocating funds appropriated in this or subsequent appropriations bills should these issues be satisfactorily resolved.

NATIONAL WILDLIFE REFUGE FUND

Amendment No. 18: Appropriates $10,779,000 for the National wildlife refuge funds as proposed by the Senate instead of $10,000,000 as proposed by the House.

NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 19: Appropriates $11,700,000 for the North American wetlands conservation fund instead of $10,500,000 as proposed by the House and $13,000,000 as proposed by the Senate. The managers expect that $500,000 of the funds provided will be used for the small grant program initiated in fiscal year 1996, and that the amount used for management and administration will be consistent with the authorized level.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 20: Appropriates $1,593,000 for the Volunteers-in-Parks program as proposed by the Senate instead of $2,500,000 as proposed by the House.

Amendment No. 21: Appropriates $1,233,664,000 instead of $1,232,325,000 as proposed by the House and $1,250,429,000 as proposed by the Senate. The conference agreement provides $221,112,000 for resource stewardship, which includes an increase to the amount proposed by the House of $100,000 for the Northwest ecosystem office and decreases to the House proposed level of $300,000 for air quality, $500,000 for abandoned mines, $3,000 for desert mining, and $596,000 for special need parks.

The amount provided for special need parks includes an increase of $920,000 over the amount provided by the House for Gettysburg NMP and a decrease of $1,516,000 which is shifted to other activities consistent with the Senate distribution. The managers intend that the entire $580,000 provided for desert mining be spent at the Mojave National Preserve to hire mineral examiners to begin to clear the existing backlog.

The conference agreement provides $291,080,000 for visitor services. The decrease below the House amount is $769,000 for special need parks.

The conference agreement provides $383,588,000 for maintenance. Increases to the House amount include $2,028,000 for special need parks and $250,000 for ongoing structure stabilization at Dry Tortugas NP. The managers expect this program to be included in the base in future budget submissions. The managers are concerned that these funds be used directly for ongoing masonry work at the park, and not be used to hire additional supervisory personnel.

The conference agreement provides $240,341,000 for park support. Increases to the House amount include $257,000 for special need parks, $300,000 for wild and scenic rivers, $422,000 for social science programs and $350,000 for the National trails system. Within the increase provided for National trails, $50,000 is for the Lewis and Clark Trail office, $200,000 is provided for technical assistance to the Lewis and Clark Trail, $50,000 is for the California and Pony Express Trails and $50,000 is for the North Country Trail. The managers continue to support the $600,000 earmark for the NPS challenge cost share program for the National trails system.

The conference agreement provides $97,543,000 for external administrative costs. This amount includes an increase above the House level of $700,000 for IDEAS and a decrease of $900,000 for FTS 2000.

The managers find the recent reports of excessive construction costs incurred by the National Park Service, and specifically the Denver Service Center, totally unacceptable.

The managers continue to be concerned about the condition of employee housing in the National parks and have provided over $150 million since 1989 to address the problem. However, there have been several General Accounting Office reports in recent years and a March 1996 Inspector General report that raise serious concerns about the high cost of housing that the Service has built in recent years, particularly at Grand Canyon and Yosemite National Parks. The managers do not believe that constructing houses at three times the cost of comparable privately built homes can be justified under any circumstances.

The lack of oversight and accountability, not only in the design and construction of NPS facilities, but also in tempering the mix of desired features sought at the park level, is of great concern. The managers are particularly concerned about the decision making processes leading to the construction of the housing, the lack of effective constraints on the scope and costs of housing as well as other projects, and the role of the Denver Service Center (DSC) in design and oversight. There currently are no incentives at the Denver Service Center or at the individual park level to reduce these cost and save money. The managers are concerned that the current structure of the construction program lacks sufficient justification and explanation of the basis for overhead costs for DSC charged to NPS construction projects.

The Park Service should give serious consideration to base funding for the center as opposed to funding center operations from individual construction projects. The managers are also concerned that current methods used to monitor construction projects report only on cost-overruns, and that any cost-efficiencies or savings are rarely reported to the Committees on Appropriations.

The managers have previously raised concerns about the Park Service's management of its employee housing program. The managers appreciate the need for Federally provided employee housing where it is critical to the mission of the specific park. However, in 1993, it became apparent that housing was being provided in parks where it was not mission critical. Yet four years later, there appears to have been little change. In fact, the housing inventory has increased. While the managers realize that the Park Service is presently implementing the 1996 Omnibus Parks Act which requires a park by park assessment, the managers understand that it will take five years to complete, nine years from the time the programs were first identified. This time frame is not acceptable.

The Secretary is directed to appoint a review committee, a majority of whose members shall come from outside the National Park Service, to review the construction practices of the service, with primary emphasis on the role of the Denver Service Center. The report of the review committee, together with recommendations of the Secretary, shall be submitted to the Committees no later than April 15, 1998.

In addition, the managers direct the National Park Servide to take the following actions:

1. Working with independent consultants familiar with design and construction business operations, the National Park Service is to develop design and construction guidelines for all buildings and structures in the Service including employee dwellings, visitor use structures, and administrative and maintenance support facilities. The guidelines should consider comparable facilities in use by the private sector, other Federal land management agencies, and State and local governments. The consultants should identify methods and procedures for the Denver Service Center to reduce design costs, and should consider different ways of procuring contract services and supervising construction, including increased responsibility for supervision and oversight by the park unit and not Denver employees. Internal control procedures must be put in place to ensure that the design guidelines are met once they are adopted by the Service. The guidelines and procedures are to be in place and a full report made to the House and Senate Committees on Appropriations by April 1, 1998.

2. All future line-item construction requests for new and signficiantly rehabilitated structures shall conform to these guidelines. Should the Park Service want to vary from these guidelines, the individual projects shall be submitted to the House and Senate Appropriations Committee for approval.

3. The Park Service also should propose a two-year action plan for reducing its housing inventory. This plan should be provided to the Committees by April 1, 1998, and should include specific inventory reductions based on an amount agreed to by the agency and the Committees. In addition, the managers want to know how the agency intends to hold its managers accountable for achieving these inventory reduction commitments.

4. The managers expect that no request for funds for construction additional employee housing will be considered until these directives are fully implemented.

The managers have included a general provision in Title III regarding the appointment and compensation of officer of the Presidio Trust.

The Presidio Trust is authorized to exercise loan guarantee authority in accordance with the provisions set forth in Public Law 104–333. Pursuant to Public Law 104–333, funds appropriated to the National Park Service for operations at the presidio in San Francisco are to be transferred to the Presidio Trust. The managers do not object to the use of a portion of the funds transferred to provide the necessary loan subsidy for the authorized loan guarantee program.

The managers are concerned that the environmental cleanup proposed by the Department of the Army for the Presidio will not meet the ecological, health and safety criteria appropriate for a National park. As the only base closure to revert to National park use, the managers emphasize the importance of meeting the cleanup levels set by the National Park Service.

In addition to this concern, the managers also express their strong interest in ensuring the timely rededication of the Presidio because of the requirements placed on the Presidio Trust to achieve self sufficiency by a time certain. Without a thorough and timely cleanup of the Presidio, the Trust will experience difficulty in securing the leases necessary to generate revenues to ensure its success.

Substantial philanthropic pledges have been made toward restoration of the Crissy Field area of the Presidio. Any delay in the remediation of this site could jeopardize private funds for the project.

The managers are concerned that the Army's current plans for environmental remediation at the Presidio will present a serious impediment for high public use of the Presidio and protection of its ecological values, and for the Presidio Trust to achieve self sufficiency.

The managers are concerned about the unsafe conditions at the intersection of Virginia State Routes 29 and 234 in the Manassas National Battlefield Park, Prince William County, Virginia, and encourage the National Park Service, consistent with applicable laws pertaining to the management of the park, to cooperate with the Virginia Department of Transportation and Federal Highway Administration officials as safety improvements to the intersection are considered.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 22: Appropriates $44,259,000 for National recreation and preservation instead of $43,934,000 as proposed by the House and $45,284,000 as proposed by the Senate and expands the authority for grants to heritage areas to include sec. 606 of title VI, division I of Public Law 104–333.

The conference agreement provides $8,984,000 for natural programs. This is the same level as proposed by the House. The managers have included $250,000 to continue the Lake Champlain program and $150,000 for ongoing support to the Connecticut River Conservation partnership.

The managers included an additional $200,000 in the river and trails technical assistance program's budget for fiscal year 1997 specifically for the Chesapeake Bay program office in Maryland. These funds were to be used to help local communities and local heritage park partnerships implement their heritage watershed protection plans. Although the managers expect $200,000 to be used for this purpose in each of fiscal years 1997 and 1998, there has been concern over the extremely slow obligation of these funds to the local communities in fiscal year 1997. The managers expect the Park Service to consider the project a high priority and ensure that the funds for both fiscal years 1997 and 1998 are provided to the local communities in an expeditious manner. A report on the status of these funds is to be provided to the House and Senate Appropriations Committees no later than April 15, 1998.

The conference agreement provides $18,899,000 for cultural programs, the same level as the House. This amount includes an increase of $200,000 above the House level for the Native American graves protection program and a reduction of $200,000 below the House level for National Register programs.

The conference agreement provides $6,797,000 for Statutory or Contractual Aid. Changes to the House level include increases of $100,000 for the Aleutian World War II National Historic Area, $325,000 for the Delaware and Lehigh Navigation Canal, $65,000 for the Lower Mississippi Delta, $285,000 for the Vancouver National Historic Reserve, and $300,000 for the Wheeling National Heritage Area; and a decrease of $750,000 for the Alaska Native Cultural Center.

With respect to heritage partnership programs, the managers concur with the approach specified by the House, with the understanding that the areas encompassed in the bill language that do not receive the maximum amount shall each receive no less than $200,000.

HISTORIC PRESERVATION FUND

Amendment No. 23: Appropriates $40,812,000 for the historic preservation fund rather than $40,412,000 as proposed by the House and $39,812,000 as proposed by the Senate. The increase above the House provides $400,000 for grants to Indian tribes. Funds for the HBCU initiative are to be allocated as described in House Report 105–163.

Amendment No. 24: Modifies language proposed by the Senate providing that $4,200,000 for restoration of historic buildings at historically black colleges and universities will remain available until expended. The House had no similar provision.

The managers are aware of efforts by the Villages of Westhampton Beach and Patchogue to rejuvenate their main street business community by refurbishing two historic theaters and turning them into performing arts centers. Toward this end, and to the extent allowed by law, the relevant Federal agencies should consider, through the normal application and review process, any requests for assistance from the Villages as they proceed with their theater improvements.

CONSTRUCTION

Amendment No. 25: Includes language provding that modifications for Everglades National Park are authorized under the construction account as proposed by the Senate. The House had no similar provision.

Amendment No. 26: Appropriates $214,901,000 for construction instead of $148,391,000 as proposed by the House and $173,444,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Acadia NP (carriage roads)	$1,200,000
Acadia NP (upgrade utilities)	2,000,000
Accokeek Foundation (facilities)	200,000
Alaska Native Heritage Center	2,200,000
Amistad NRA (sewer treatment)	750,000
Blackstone River Valley NHC (exhibits/signs)	500,000
Blue Ridge Parkway (administration bldg)	1,500,000
Blue Ridge Parkway (dam repair)	1,100,000
Blue Ridge Parkway (EIS)	300,000
Blue Ridge Parkway (Fisher Peak)	5,235,000

Project	Amount
Boston NHP (elevator)	1,600,000
Cape Hatteras NS (lighthouse)	2,000,000
Carisbad Caverns NP (water collection)	3,752,000
Cuyahoga Valley NRA (repair & rehabilitation)	4,500,000
Darwin Martin House (restoration)	500,000
Dayton Aviation NHP (Hoover Print Block restoration)	3,500,000
Delaware Water Gap NRA (dam repair)	900,000
Delaware Water Gap NRA (education facilities)	2,000,000
Delaware Water Gap NRA (trail development)	1,500,000
Denali NP&P (Riley Creek utilities rehabilitation)	4,150,000
El Malpais NM (multi-agency center)	1,500,000
Everglades NP (water delivery)	11,900,000
Everglades NP (water line)	3,000,000
FDR Home NHS (water supply)	1,540,000
FDR Home NHS (Vanderbilt utilities)	1,300,000
Fort McHenry NM and Historic Shrine (wall rehabilitation)	1,200,000
Fort Necessity NB (Jumonville and Braddock access, parking)	955,000
Fort Necessity NB (Washington Tavern access, parking)	1,290,000
Fort Smith NHS (rehabilitation)	3,400,000
Fort Sumter NM (site development)	2,860,000
Gateway NRA (road protection)	4,800,000
Gauley NRA (facilities planning)	750,000
General Grant NM (restoration of grounds and facilities)	900,000
George Washington Memorial Parkway (trail repair)	300,000
Glacier Bay NP&P (wastewater treatment)	1,731,000
Grand Canyon NP (transportation)	2,900,000
Hispanic Cultural Center (arts center)	3,000,000
Hot Springs NP (stabilization, lead abatement)	500,000
Independence NHP (utilities, rehabilitation)	4,300,000
Isle Royale NP (vessel)	2,300,000
Jean Lafitte NHP&P (shoreline stabilization)	2,000,000
Katmai NP&P (rehabilitation)	200,000
Kenai Fjords NP (Seward interagency facility)	300,000
Lake Mead NRA (water system)	4,700,000
Lewis & Clark Trail (trail construction)	300,000
Manzanar NHS (fence repair)	310,000
Marsh-Billings NHP (rehabilitation carrage house)	2,400,000
Minute Man NPH (road/trail)	2,000,000
Mount Rainer NP (employee dorms)	2,452,000
Natchez Trace Parkway (road construction)	5,100,000
National Capital Parks (Washington Monument)	1,000,000
National Capital Parks (Jefferson Monument)	4,500,000
New Bedford Whaling NHP (roof repair)	153,000
New River Gorge NR (access, trails)	2,525,000
Oklahoma City National Memorial (construction)	5,000,000
Penn Center (rehabilitation)	500,000
President's Park (HVAC)	11,500,000
Rock Creek Park tennis facilities (access improvements)	200,000
Rutherford B. Hayes Home (rehabilitation)	500,000
Sequoia NP (facilities)	3,000,000
Shiloh NMP (interpretative center)	1,000,000
Shiloh NMP (bank stabilization)	2,000,000
Sotterly Plantation (restoration)	600,000
Southwest Pennsylvania Heritage Comm. (rehabilitation)	2,000,000
Stones River NB (rehabilitation & trail)	650,000
Timpanogos Cave NM (joint facility)	510,000
Trail of Tears NHT, NC (museum exhibits)	600,000
Trail of Tears NHT, OK (museum exhibits)	600,000
Upper Delaware SRR (aqueduct)	420,000
Vancouver NHR (planning restoration)	2,223,000
Vicksburg NMP (rehabilitation)	1,695,000
Vietnam Veterans Museum, Chicago	1,000,000
Wind Cave NP (elevators)	1,400,000
Wrangell-St. Elias NP&P (headquarters and interpretive center)	400,000
Zion NP (transportation)	3,210,000
Project total	156,761,000
Emergency unscheduled housing	15,000,000
Planning	17,500,000
General management plan	7,775,000
Equipment replacement	17,865,000
Total	214,901,000

The managers have included $,2,200,000 to assist in the construction of the Alaska Native Heritage Center. This completes the Park Service commitment to construction of this project.

The managers have provided $1,500,000 for the El Malpais Multiagency administrative and information center in New Mexico. These funds are to be equally matched with non-Federal funds. This completes the Park Service construction commitment to this project. Funding for exhibits, furnishings and operations should be provided equally by all partners.

The managers have provided $5,000,000, the total Federal commitment, for the proposed Oklahoma City National Memorial. The managers understand that a private trust will be responsible for the operations of this facility.

The managers have agreed to provide $1,000,000 to initiate planning and design for the Corinth, MS, interpretive center at Shiloh National Military Park. The managers encourage the Park Service to keep the total cost of this project as low as possible and to work with the local community and other interested parties to generate a significant non-Federal cost share.

The managers have included $510,000 for planning and design of a joint Park Service and Forest Service facility at Timpanogos Cave National Monument, Utah. The managers understand that the total construction cost for this administrative/information center is $4,500,000. The managers expect future budget submissions to reflect a 50/50 cost share between the Park Service and the Forest Service.

Of the $2,223,000 in construction funds made available for the Vancouver National Historic Reserve, $150,000 is for developing a management plan for the Reserve, pursuant to Public Law 104–333, Section 502; $200,000 is for reconstruction at historic Fort Vancouver; $500,000 is for the removal of airplane hangars and cultural landscape restoration on National Park Service lands; and $1,373,000 is for historic structure surveys, restoration planning, restoration construction, and historic exhibits in the Reserve. Use of funds for and expenses associated with the Jack Murdock Aviation Center should be consistent with the Cooperative Agreement between the City of Vancouver and the National Park Service (agreement number 1443–CA9000–96–01, executed December 4, 1995).

The managers have provided $50,000 for a special resource study for the Charleston school district in Arkansas.

The managers direct the National Park Service to provide the necessary funding from its Federal Highway Lands Program funds to ensure completion of the U.S. Highway 27 Bypass around the Chickamauga-Chattanooga National Military Park no later than December 31, 1999.

The managers have provided $300,000 for the Lewis and Clark Trail Visitor Center. These funds, subject to matching from non-Federal sources, complete the Federal commitment.

Amendment No. 27: Restores language proposed by the House and stricken by the Senate which provides that $500,000 for the Rutherford B. Hayes Home, and $600,000 for the Sotterley Plantation shall be derived from the Historic Preservation Fund; inserts language proposed by the Senate which provides similar authority for $500,000 for the Darwin Martin House and $500,000 for Penn Center; provides that funds for the Hispanic Cultural Center are subject to authorization; prohibits the use of funds to relocate the Brooks River Lodge in Katmai NP&P from its current location; and inserts language providing $1,000,000 to be used for the Vietnam Veterans Museum in Chicago, Illinois.

The managers are providing $300,000 to the National Park Service and $100,000 to the Forest Service to begin the planning and design of a multi-agency facility in Seward, Alaska. The facility will include a convention center for the City of Seward, and office and visitor facility space for the two Federal agencies. The location of the convention center and agency operations in a common building will generate efficiencies and cost savings by providing a single facility that combines administrative and interpretative programs and that streamlines facility operations and maintenance. These funds are being provided with the understanding that the facility will be financed, constructed, owned and operated by the City of Seward. The managers intend that the Federal involvement in this project be limited to funding the planning and design, and that the Federal office and visitor facility space be procured via long-term leases with the City of Seward.

An amount of $400,000 is provided for site preparation for a visitor center in Wrangell-St. Elias National Park and Preserve. The managers are pleased the initial cost estimate of up to $19,000,000 has been scaled down to $4,500,000 and the size of the facility reduced by two-thirds to reduce costs.

The managers note that the City of Galax, VA has donated approximately 1,100 acres of prime land to the National Park Service to

be the location for the Fisher Peak Center on the Blue Ridge Parkway. The managers further acknowledge the commitment of a non-governmental, non-profit organization to take responsibility for the operation of all cultural aspects of the center's activities, including acquisition and maintenance of exhibits and payment of fees and expenses for performing artists. Following construction of the center, the Park Service's responsibility for the center will be limited to maintenance of the infrastructure, in accordance with the draft negotiations previously undertaken by the NPS and the non-profit organization. The managers believe the donation of land and the financial contribution represented by the operation of the cultural activities at Fisher Peak over the life of the facility should constitute a non-Federal share for the center of considerably more than 50 percent of the construction cost.

The managers direct the National Park Service to conduct a study, within available funds, on the feasibility of establishing the Androscoggin River Valley as a National heritage area.

The managers have provided $3,000,000 for the Hispanic Cultural Center in Albuquerque, New Mexico, subject to authorization. The managers note that this facility will not be located in or near a unit of the National Park System and therefore encourage that future funding be provided from other Federal or non-Federal sources.

Amendment No. 28: Deletes Senate language directing the reprogramming of funds from the Jefferson National Expansion Memorial to the U–505 National Historic Landmark. The House had no similar provision.

LAND ACQUISITION

Amendment No. 29: Appropriates $143,290,000 for land acquisition instead of $129,000,000 as proposed by the House and $126,690,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Appalachian Trail	$4,200,000
Arkansas Post NM, AR	440,000
Aztec Ruins, NM, NM	600,000
Big Cypress NPr, FL	10,000,000
Chattahoochee River NRA, GA	3,000,000
Cuyahoga Valley NRA, OH	4,000,000
Denali NP&P, AK	2,000,000
Everglades NP, FL	66,000,000
Fredericksburg/Spotsylvania NMP, VA	3,500,000
Gauley NRA, WV	950,000
Golden Gate NRA, CA	1,550,000
Hagerman Fossil Beds NM, ID	800,000
Haleakala NP, HI	1,000,000
Indiana Dunes NL, IN	3,000,000
Minute Man NHP, MA	500,000
New River Gorge NR, WV	2,000,000
Olympic NP, WA	3,000,000
Palo Alto Battlefield NHS, TX	900,000
Petroglyph NM, NM	2,000,000
Saguaro NP, AZ	3,000,000
San Antonio Missions NHP, TX	1,500,000
Santa Monica Mountains NRA, CA	1,000,000
Sterling Forest, NY	8,500,000
Stones River NB, TN	1,000,000
Voyageurs NP, MN	650,000
Wrangell-St. Elias NP&P, AK	4,200,000
Aacquisition management	8,500,000
Emergency/hardships	3,000,000
Inholdings/exchanges	1,500,000
State grant assistance	1,000,000
Total	143,290,000

Amendment No. 30: Earmarks $1,000,000 for administering the State assistance program as proposed by the House. These funds are associated with close-out of prior year awards.

Amendment No. 31: Deletes House language providing an earmark for the Sterling Forest.

The amendment also includes language as proposed by the Senate providing the Secretary of the Interior authority to provide Federal land acquisition funds to the State of Florida for the protection of the Everglades and allows for acquisitions within Stormwater Treatment Area 1–E, including reimbursement. Funds are made available for STA 1–E because STA 1–E will be designed and operated to improve the quality of water flowing into the Loxahatchee NWR.

While the managers have agreed to the Senate bill language giving the Secretary of the Interior authority to provide Federal assistance to the State of Florida for land acquisition in the Everglades, the managers agree that completing the Federal acquisitions remains the priority for the use of Federal acquisition dollars. The managers also believe progress should continue on the east buffer.

The managers intend that any funds remaining available for land acquisition for, or development of, the East St. Louis portion of the Jefferson National Expansion Memorial may not be expended until private entities located within the East St. Louis portion of the Memorial have been removed or relocated (using non-Federal funds) for park development purposes. Further appropriations for this purpose are not likely until these local issues are resolved.

The managers have provided $1,550,000 to purchase the Giacomini Ranch property within the Golden Gate National Recreation Area. These funds, along with the $3,200,000 in State funds, complete this purchase.

The managers have provided funds to complete the purchase of the Gisler property in the Hagerman Fossil Beds National Monument. The purchase of this desirable property from a willing seller should be conducted with all due speed based on an offer to sell dated May 21, 1997.

The managers direct that the funds provided for Stones River National Battlefield may only be spent on acquisitions within the authorized park boundaries as of January 1, 1996.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 32: Appropriates $759,160,000 for surveys, investigations and research instead of $755,795,000 as proposed by the House and $758,160,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $3,000,000 for the global seismographic network, $1,000,000 for volcano hazard studies for Hawaii and Alaska, $2,000,000 for the Alaska minerals at risk project and $500,000 for Great Lakes research; and decreases of $500,000 for biological information management, $135,000 for Caddo Lake (funded under the U.S. Fish and Wildlife Service), and $2,500,000 for the pilot competitive grant research program.

The hypoxia zone in the Louisiana shelf of the Gulf of Mexico has grown to an area of about 7,000 square miles and because of its size and scope is having a significant negative impact on the fishing industry in the Gulf. The managers support the U.S. Geological Survey's research into the causes and effects of the problem. The managers urge the Survey to consider this a high priority in its fiscal year 1999 budget.

The managers expect the current policy with respect to awarding competitive grants to the Water Resources Research Institutes to be continued.

Increased funding for the cooperative research units is provided in order to fill some of the 20 position vacancies that now exist at established units. The managers have not provided any funding to establish new cooperative research units.

Amendment No. 33: Earmarks $2,000,000 for an Alaska mineral and geologic data base as proposed by the Senate. The House had no such earmark.

Amendment No. 34: Earmarks $145,159,000 for the biological research activity and the operation of the cooperative research units instead of $147,794,000 as proposed by the House and $147,159,000 as proposed by the Senate.

Amendment No. 35: Deletes language proposed by the Senate allowing the United States Geological Survey to make payments to local entities for real properties transferred from the Fish and Wildlife Service to the Survey. The House had no similar provision. Language is included under General Provisions, Department of the Interior, to allow the U.S. Fish and Wildlife Service to continue these payments.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

Amendment No. 36: Appropriates $137,521,000 for royalty and offshore minerals management instead of $139,621,000 as proposed by the House and $135,722,000 as proposed by the Senate. Changes to the amount proposed by the House include an increase of $1,200,000 in resource evaluation for the marine minerals resource center program and decreases of $1,000,000 in the OCS lands regulatory program for a clearinghouse for offshore petroleum production information and $2,300,000 in the royalty management program, of which $1,000,000 is for valuations and operations and $1,300,000 is for compliance.

The managers expect the MMS to report on how funds for the marine minerals resource center program will be used to support the MMS mission, and thereafter to keep the Committees advised of how these funds are being used.

The managers are aware that the MMS has received numerous expressions of concern about the proposed new regulations on oil valuation including concerns about the proposed changes in the long standing practice of valuation of hydrocarbon production at the lease where it is brought to the surface; the impact of transportation, administrative costs and other risks if valuation of hydrocarbon production is conducted away from the lease site; and the application of any new regulations retroactively. The managers expect the MMS to continue to consult with industry and the States and to report back to the Committees prior to finalizing this regulation. The managers also intend to explore the possibility of an independent evaluation by the General Accounting Office on this issue and on the issue of royalty in kind.

The managers understand that the MMS needs to acquire geological and geophysical information to obtain the information needed to ensure that fair prices are received on outer continental shelf tracts offered for leasing. This is a responsibility to MMS has to the taxpayers of this country. However, the MMS also has the responsibility of ensuring that company confidential information is protected from disclosure. In finalizing the proposed rule on geological and geophysical information, the MMS should ensure that both of these responsibilities are met and should continue to work with the industry toward that end.

Amendment No. 37: Earmarks $68,574,000 for royalty management instead of $70,874,000 as proposed by the House and $66,175,000 as proposed by the Senate.

Amendment No. 38: Deletes language proposed by the House and stricken by the Senate which would have limited the use of receipts to activities within the outer continental shelf lands program.

Amendment No. 39: Earmarks $3,000,000 to remain available for two fiscal years for computer acquisitions as proposed by the Senate instead of $1,500,000 as proposed by the House.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Amendment No. 40: Appropriates $95,437,000 for regulation and technology as proposed by the House instead of $97,437,000 as proposed by the Senate. The agreement does not fund the acid mine drainage technology initiative proposed by the Senate.

ABANDONED MINE RECLAMATION FUND

Amendment No. 41: Appropriates $177,624,000 for the abandoned mine reclamation fund as proposed by the Senate instead of $179,624,000 as proposed by the House.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 42: Appropriates $1,528,588,000 for the operation of Indian programs instead of $1,526,815,000 as proposed by the House and $1,529,024,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,500,000 for the tribally controlled community colleges, $1,000,000 under non-recurring programs for tribes in South Dakota that intend to run their own welfare programs, and $500,000 for the United Tribes Technical College; and decreases of $427,000 for the Gila River Farms project and $800,000 for trust records management.

The managers have agreed upon a new distribution for tribal priority allocation funding for fiscal year 1998. This distribution is as follows: (1) requested fixed cost increases, internal transfers, and proposed increases to formula driven programs not included in the tribes' TPA base; (2) all tribes are provided a minimum funding level of $160,000; and (3) any remaining funds will be distributed based on recommendations of a task force to be established by the Secretary of the Interior. Other than this agreed upon distribution there are no other earmarks for TPA. A more detailed explanation is provided under General Provisions, Department of the Interior, Amendment No. 65.

Within other recurring programs $600,000 is provided for the Bering Sea Fishermen's Association.

Amendment No. 43: Earmarks $55,949,000 to remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian self-determination fund, land records improvements and the Navajo-Hopi settlement program instead of $59,775,000 as proposed by the House and $59,479,000 as proposed by the Senate.

Amendment No. 44: Inserts language proposed by the Senate allowing tribes to use tribal priority allocation funds for replacement and repair of school facilities, provided that such replacement and repair is approved by the Secretary of the Interior and is completed with non-Federal and/or TPA funds. The House had no similar provision.

The managers have included bill language to allow tribes to use TPA funds for replacement and repair of school facilities. This language requires that tribes comply with applicable building codes, obtain the approval of the Secretary of the Interior for proposed projects, and complete projects with TPA and/or non-Federal funds. The Secretary's approval would be based on the determination that the proposed projects comply with the Bureau's education space guidelines; the Bureau would have the two-year lead time it requires to plan adequately for operation and maintenance costs; and tribes would have adequate funding to complete the project.

CONSTRUCTION

Amendment No. 45: Appropriates $125,051,000 for construction as proposed by the Senate instead of $110,751,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,800,000 for the Pyramid Lake school, $1,600,000 for the Sac and Fox school, $1,800,000 for the WaHeLut school, and $9,100,000 for the Ute Mountain Ute detention center.

The managers are aware of assistance that has been provided in prior years to the Marty Indian school in South Dakota. To the extent that there are additional high-priority requirements identified for the facilities which service the elementary grades at this location, the Bureau should give consideration to these needs through the emergency or minor repair programs within the educational facility improvement and repair program.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 46: Appropriates $43,352,000 for Indian land and water claim settlements and miscellaneous payments to Indians as proposed by the Senate instead of $41,352,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,500,000 for the Pyramid Lake settlement and $500,000 for church restoration on the Aleutian and Pribilof Islands.

Amendment No. 47: Earmarks $42,000,000 for implementation of settlements as proposed by the Senate instead of $40,500,000 as proposed by the House.

Amendment No. 48: Earmarks $1,352,000 for various settlements as proposed by the Senate instead of $852,000 as proposed by the House.

Amendment No. 49: Inserts references to Public Laws 101–383 and 103–402 as proposed by the Senate consistent with the funding earmark in Amendment No. 48.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

Amendment No. 50: Appropriates $67,514,000 for assistance to territories instead of $68,214,000 as proposed by the House and $67,214,000 as proposed by the Senate. The decrease to the amount proposed by the House is $700,000 for technical assistance within the territorial assistance activity.

Amendment No. 51: Earmarks $63,665,000 for technical assistance instead of $64,365,000 as proposed by the House and $63,365,000 as proposed by the Senate.

COMPACT OF FREE ASSOCIATION

Amendment No. 52: Appropriates $20,545,000 for the compact of free association as proposed by the Senate instead of $20,445,000 as proposed by the House. The conference agreement includes $100,000 above the level proposed by the House for Enewetak support.

DEPARTMENTAL MANAGEMENT

The managers agree not to require the Alaska North Slope land exchange assessment mandated in the Senate report.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $24,500,000 for the Office of the Inspector General as proposed by the Senate instead of $24,439,000 as proposed by the House.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

Amendment No. 54: Appropriates $1,000,000 with one-year availability for salaries and expenses of the National Indian Gaming Commission as proposed by the House instead of $1,000,000 to remain available until expended as proposed by the Senate.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

Amendment No. 55: Appropriates $33,907,000 for Federal trust programs in the Office of Special Trustee for American Indians instead of $32,126,000 as proposed by the House and $35,689,000 as proposed by the Senate. There is a general increase of $1,781,000 above the House level.

Within the funds provided for the office of the special trustee $2,197,000 is provided for settlement and litigation support. The managers understand that the demands placed on the office of the special trustee to support activities related to settlement efforts and ongoing tribal and IIM litigation are significant. These activities are critical to ensuring that the Federal government appropriately addresses its past management of Indian trust accounts. The managers expect to be kept apprised of settlement and litigation activities through semiannual reports to the Committees.

Amendment No. 56: Strikes the redundant phrase ''for trust fund management'' in the description of programs to be funded under the Office of Special Trustee for American Indians as proposed by the Senate.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 57: Deletes language proposed by the House and stricken by the Senate restricting the use of funds for finalizing a rule regulation pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 and inserts language providing that Park Service units participating in the recreation fee demonstration program cover the cost of collecting fees within the funds retained at each unit. The managers note that 80% of all fees collected under the demonstration project are retained by the collecting unit.

Section 107 of the House bill prohibited any agency of the Federal government from implementing any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes (43 U.S.C. 932). The language of section 107 is identical to section 108 of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208, 110 Stat. 3009–200). The Senate bill or fiscal year 1998 did not contain any provision similar to section 107 because the Senate maintained that section 108 of the fiscal year 1997 Interior appropriations law was intended as, and is, permanent law. The Comptroller General recently reviewed section 108 of the fiscal year 1997 Interior appropriations law and determined that it is permanent law (Opinion B–277719, August 20, 1997). The Comptroller General's opinion is printed on page E1681 of the Congressional Record of September 8, 1997.

The managers agree with the Comptroller General that existing law prohibits any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes from taking effect until such time as any such rules or regulations are expressly authorized by an Act of Congress. Further, the managers note that noting in the deletion of section 107 or in any provision of the conference report shall be constructed as contradicting or diminishing the permanence of section 108 of the fiscal year 1997 Interior appropriations law or as a subsequent Act of Congress expressly authorizing any final rules or regulations regarding

section 2477 of the Revised Statutes to take effect.

Amendment No. 58: Makes a technical correction to House language continuing the moratorium on offshore oil and gas leasing in the North Aleutian Basin as proposed by the Senate.

Amendment No. 59: Modifies House language regarding the ability of Indian tribes, tribal organizations, or tribal consortia to invest advance payments or to allow such payments to be invested in certain mutual funds and securities or to be deposited in certain protected accounts as proposed by the Senate.

The intent of the investment restrictions contained in Section 112 is to limit the types of permissible investments for all funds appropriated and obligated under the Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act. This is to ensure that these funds are available to support the public functions for which these funds were appropriated. The managers believe that these goals will be achieved by barring risky investments such as those in speculative securities, in unsecured financing arrangements, or uncollateralized or uninsured bank accounts. The managers strongly believe that should losses occur, such amounts must be repaid by the tribes.

Amendment No. 60: Inserts language proposed by the House and modified by the Senate concerning severance pay and others benefits by Bureau of Land Management employees in the helium operations program to include certain training benefits and to clarify annual leave restoration provisions as proposed by the Senate.

Amendment No. 61: Restores language inserted by the House and stricken by the Senate stipulating that the establishment of a new regional office in the United States Fish and Wildlife Service requires the advance approval of the House and Senate Committees on Appropriations.

The managers are sympathetic to the Service's argument that the large workload on the west coast is putting a strain on the regional office in Portland, Oregon. The managers believe that the Service's proposal to create a new regional office at a cost of $10 million and more than 120 FTEs may not be the best use of additional resources and staffing. In this conference agreement the managers have been very sensitive to the Service's need to address its large maintenance and operational backlogs in the field. The managers do not want to see a large new bureaucracy drain both funding and staffing increases which are so essential to making on-the-ground improvements as the National refuge system approaches its 100th birthday in the year 2003. The managers note that the Vice President's National Performance Review goals are targeted toward reducing the size of the Federal bureaucracy and empowering employees to take responsibility for their work assignments without a multi-layered review bureaucracy. Therefore, the managers encourage both the Service and the Administration to examine a variety of cost-effective alternatives, including nontraditional alternatives, to deal with the Service's west coast workload problem, such as placing additional personnel in the field. The House and Senate Committees on Appropriations will continue to work with the Service to identify the most appropriate way to address this problem. The managers believe the solution should be part of an overall approach to addressing the operational, maintenance and staffing needs of the Service.

Amendment No. 62: Inserts language conveying the Bowden National Fish Hatchery to the State of West Virginia as proposed by the Senate. The House had no similar provision. This provision is consistent with the hatchery transfer proposal included in the fiscal year 1996 Appropriations Act.

Amendment No. 63: Amends section 115 of Public Law 103–332 to allow agencies in addition to the Department of the Interior to fund cooperative research agreements incrementally with funds provided by other Federal agencies as proposed by the Senate. The House had no similar provision.

Amendment No. 64: Amends Public Law 100–446 as proposed by the Senate to change the annual amount that can be expended for Kili and Ejit at Bikini Atoll and to provide for inflation adjustments. The House had no similar provision.

Amendment No. 65: Modifies language proposed by the Senate directing the BIA to reallocate tribal priority allocation (TPA) funds. The House had no similar provision.

The managers agree that the current pro rata distribution of TPA, based on historical methods dating to the 1930s, has resulted in great disparity in the funds of the non-formula funded TPA programs, which are referred to as ''base'' funds. Currently, 309 of the 526 Federally recognized tribes do not receive a base of even $160,000, the minimum level of TPA funding per tribe recommended by the Joint Tribal/BIA/DOI Advisory Task Force on Reorganization of the BIA in its 1994 report. The managers agree that the BIA shall raise the base funding of all tribes not receiving the minimum recommended TPA funding to $160,000 in fiscal year 1998.

The managers understand that the tribes have obligations related to the use of the TPA funds. The managers have provided tribes with full fiscal year 1997 TPA funding, adjusted for all fixed costs and internal transfers, and have provided funding for the proposed increases to the formula driven programs not included in tribes' base.

To the extent that TPA funds remain available for allocation after distribution as directed above, the managers agree that the funds should not be allocated under the current method used by the BIA. The managers direct the Secretary to convene a task force of Federal officials and tribal representatives by October 31, 1997, to determine the allocation of any remaining TPA funds, based on the recommendations and principles contained in the 1994 report. If the task force cannot agree on a distribution consistent with the 1994 report by January 31, 1998, the Secretary shall distribute the funds by February 28, 1998, based on the recommendations of a majority of task force members, or, if no majority recommendation can be reached, considering the recommendations of the task force members. The managers urge the task force and the Secretary, in the event that the Secretary has to distribute the funds without a distribution recommendation supported by a majority of task force members, to consider the inequities in current TPA allocation and the disparate economic situations of the tribes.

Amendment No. 66: Amends Section 116 of Public Law 104–208 as proposed by the Senate to correct citations in the fiscal year 1997 appropriations Act relating to the transfer of a Federal facility in Salt Lake City, Utah, to the University of Utah. The House had no similar provision.

Amendment No. 67: Amends language relating to Kantishna Mining claims acquisition which was set out in the Senate bill. In 1903, gold miners first staked claims in the area known as the Kantishna Mining District. Mining operations continued, and periodically enjoyed a number of boom years, right up through the 1970's. In 1980, the area became part of the National Park System. In 1985, the Park Service was enjoined from approving claim owners' operation plans until an Environmental Impact Statement (EIS) was completed. The preferred alternative in the EIS was for the National Park Service to acquire the claims. Under these circumstances, and subsequent delays and uncertainties, a large majority of claim owners believed that mining operation plans would not be approved. This section is intended to provide both the claim owners and the National Park Service with an expeditious mechanism to resolve these claims. While incorporating the procedures and jurisprudence under the Declaration of Takings Act, this section includes an additional procedure provided under this section for the owner's ability to bring suit.

The managers recognize that there has been significant dispute as to whether there have been takings of mining claims. This section offers consenting owners the opportunity at least to obtain compensation as of 90 days from the day of enactment of this Act, while leaving the takings matter to the parties or the court system to resolve.

The National Park Service is encouraged to use, to the greatest extent feasible, and within reasonable health and safety guidelines and in consultation with the Alaska State Historic Preservation Officer, any equipment or structures not removed by owners that are of an historic nature as part of future exhibits on mining within Denali National Park and Preserve. In addition, the managers encourage the National Park Service to allow appropriate visitor use of the trails and roads created by the miners. Congress does not authorize the National Park Service to use this section to force unwilling sellers off their patented or unpatented land.

The managers have provided funding in the NPS land acquisition account, in part, to pay for administrative work such as validity determinations and appraisals, as well as the review of information received from claim owners pursuant to this section. Such money may also fund the acquisition of claims through Declarations of Takings account.

Amendment No. 68: Modifies language proposed by the Senate which amends Section 1034 of Public Law 104–333 to extend the period for filing by Alaska Native Corporations regarding the land conveyance dispute in Lake Clark National Park and Preserve, AK. The modification permits the introduction of any relevant evidence. The House had no similar provision.

Amendment No. 69: Modifies language proposed by the Senate relating to the computation of the refuge revenue sharing payment to the Kodiak Island Borough. The modification requires the Fish and Wildlife Service to conduct another assessment of the property and to base refuge revenue sharing payments, beginning with the payment to be made in fiscal year 1999, on the new assessment. The House had no similar provision.

Amendment No. 70: Deletes language proposed by the Senate authorizing a National Park Service heritage study of the Androscoggin River Valley, and inserts language authorizing increased assessment fees for the National Indian Gaming Commission, excluding self regulated tribes such as the Mississippi Band of Choctaw. The House had no similar provision.

Amendment No. 71: Amends Section 3 of Public Law 94–392 as proposed by the Senate regarding the ability of the government of the Virgin Islands to issue bonds. The House had no similar provision.

Amendment No. 72: Directs the Secretary of the Interior to take action to ensure that the lands comprising the Huron Cemetery of Kansas City, Kansas, are used only for religious and cultural uses compatible with the use of the lands as a cemetery as proposed by the Senate. The House had no similar provision.

Amendment No. 73: Revises the boundaries of the Arkansas Post National Memorial as proposed by the Senate to include an additional 360 acres and authorizes the Secretary of the Interior to acquire these acres. The House had no similar provision.

Amendment No. 74: Modifies language proposed by the Senate regarding Glacier Bay access to provide for open competition and to limit additional passenger ferry transportation into Bartlett Cove from Juneau to one entry per day. The House had no similar provision.

Amendment No. 75: Amends Title I of Public Law 96–514 under the heading ''Exploration of National Petroleum Reserve in Alaska'' as proposed by the Senate regarding lease operations and royalty terms. The House had no similar provision.

Amendment No. 76: Inserts language proposed by the Senate prohibiting the Secretary of the Interior from approving any class III tribal-State gaming compacts without the prior approval of a State. It is also the sense of the Senate that the Justice Department should enforce the provisions of the Indian Gaming Regulatory Act. The House had no similar provisions.

The managers agree that this section prohibits the Secretary of the Interior during fiscal year 1998 from adoption specific procedures to authorize and govern Indian gaming activities in any particular State in the absence of a tribal-State compact approved by a State in accordance with State law.

Amendment No. 77: Inserts language which modifies a Senate provision relating to definition regulations of the National Indian Gaming Commission. The modification is intended to make clear that the Commission can gather information relating to the Advanced Notice of Proposed Rulemaking, but not issue draft or final rules. The House had no similar provision.

The managers note that this provision will have no effect on the classification of bingo games, including bingo involving electronic blowers. Such games currently are considered class II and will remain class II under this provision.

Amendment No. 78: Deletes language inserted by the Senate concerning the Youth Environmental Service program and inserts a provision providing for the U.S. Fish and Wildlife Service to continue to make payments to local entities for real Federal properties transferred to the U.S. Geological Survey. The Senate bill addressed the payment provision under the U.S. Geological Survey. The House had no similar provisions. The managers expect the Department to provide the report requested in the Senate amendment dealing with the Youth Environmental Service program not later than 120 days after enactment of this Act.

Amendment No. 79: Includes language proposed by the Senate concerning the conveyance of certain lands managed by the Bureau of Land Management to Lander County, Nevada. The House had no similar provision.

Amendment No. 80: Modifies language proposed by the Senate requiring the sale of certain BLM lands to landowners in Clark County, NV. The House had no similar provision.

Amendment No. 81: Deletes language proposed by the Senate establishing a National Parks and Environmental Improvement Fund and inserts language providing for a National Park Service land exchange of property in the District of Columbia for property in Prince Georges County, MD, for Oxon Cove Park. The managers have addressed the establishment of an environmental restoration fund in Title IV, Amendment No. 162. With respect to the Oxon Cove land exchange, the managers understand that the National Park Service is not liable for the hazardous wastes or other substances placed on the lands.

Amendment No. 82: Modifies language proposed by the Senate regarding the Stampede Mine Site in Denali NP&P, AK. The House had no similar provision.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

Amendment No. 83: Appropriates $187,944,000 for forest and rangeland research instead of $187,644,000 as proposed by the House and $188,644,000 as proposed by the Senate. Changes from the amounts proposed by the House include a total of $700,000 for the Rocky Mountain station forest health project, an additional $450,000 for the Institute of Pacific Islands Forestry, IH, an increase of $500,000 for the fine hardwoods tree improvement project in association with Purdue University, IN, and $1,500,000 as additional funding for research at the Pacific Northwest station. The agreement retains the Senate positions that no additional funding is provided as a grant for the Northern Arizona School of Forestry forest health project and that $3,000,000 is provided to accelerate forest inventory and analysis focused on States with partnerships.

The managers have included an increase of $300,000 for the Rocky Mountain Research Station for monitoring and research to support the Southwest region wildland ecosystem restoration projects, as developed by a joint region-station project team, that also will include appropriate expertise from other organizations. The managers, recognizing the current controversies surrounding the management of the forests in the Southwest, wish to ensure full participation by all parties in the Southwest ecosystem restoration research effort. The Forest Service shall place a representative of the New Mexico Department of Agriculture and a representative from the range task force at New Mexico State University on any advisory committee or team established for this research project. The Forest Service is directed to submit a draft proposal at the earliest possible date to the House and Senate Committees on Appropriations fully outlining its research plans and more complete details on this proposal, including the duration and multi-year cost estimate.

STATE AND PRIVATE FORESTRY

Amendment No. 84: Appropriates $161,237,000 for State and private forestry instead of $157,922,000 as proposed by the House and $162,668,000 as proposed by the Senate. Changes from the House position include the addition of $500,000 for the Alaska Spruce Bark Beetle task force in the cooperative lands forest health management activity and a reduction of $1,850,000 for cooperative lands fire management. Other changes from the levels proposed by the House include an increase of $2,000,000 for stewardship incentives and $2,000,000 for the forest legacy program, Mountains to Sound Greenway project in Washington State. The Chesapeake Bay program is funded at the fiscal year 1997 level from the forest stewardship activity. The managers encourage the Forest Service to use the stewardship incentives program to enhance sustained commodity production from private lands and aid the nation's supply of forest products and services by using the full range of forest practices authorized for this program. Economic action programs are provided $11,465,000, an increase of $465,000 above the House level. The funds to restore the forestry products conservation and recycling program to the fiscal year 1997 level are provided to maintain the technical assistance for the Princeton Hardwoods Center at the fiscal year 1997 level of $200,000. The economic action program funds should be distributed as follows:

Rural development	$5,000,000
Wood in transportation	1,200,000
Economic recovery	3,850,000
Forestry products conservation and recycling	1,200,000
Columbia River Gorge county payments	215,000

Amendment No. 85: Retains language proposed by the Senate to provide $800,000 in the Pacific Northwest Assistance activity for the World Forestry Center in Oregon to be used to aid the Umpqua River Basin land exchange project as authorized in section 1028 of Public Law 104–333. The House had no similar provision. The managers encourage the project directors to increase funding from private sources so this study can be finished in fiscal year 1998. The managers expect that no further Federal funds will be necessary and that a report detailing the use of these funds and previous Federal funds and the results of the studies will be provided to the House and Senate Committees on Appropriations no later than January 15, 1999. The managers encourage the involved Federal agencies to cooperate fully with the Umpqua River Basin land exchange project to facilitate the goals of the authorized study.

Amendment No. 86: Retains language proposed by the Senate exempting the Alaska Spruce Bark Beetle task force from requirements of the Federal Advisory Committee Act. The House had no similar provision.

INTERNATIONAL FORESTRY

The conference agreement allows the Forest Service to use up to $3,500,000 to support international forestry activities as authorized. These funds may be taken from other appropriations available to the Forest Service. The House and Senate Committees on Appropriations should be informed of the funding mix used. Of this amount, $230,000 is for the international forestry activities of the Institute of Pacific Islands Forestry, an increase of $100,000 over the fiscal year 1997 funding for this activity.

NATIONAL FOREST SYSTEM

Amendment No. 87: Appropriates $1,348,377,000 for the National forest system instead of $1,364,480,000 as proposed by the House and $1,337,045,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,000,000 for inventory and monitoring, $500,000 for anadromous fish habitat management and $2,034,000 for grazing management, and decreases of $1,370,000 for inland fish habitat management, $1,000,000 for timber sales management, $1,000,000 for soil, water and air operations, $500,000 for watershed improvements, $767,000 for minerals and geology management, $1,000,000 for real estate management and $14,000,000 for general administration.

The conference agreement includes language in Title III encouraging the Forest Service to release forest planning regulations that have been under development since 1990. Other Title III language governs the Interior Columbia River Basin environmental impact statements but the managers have not set a date certain for public comment periods. The conference agreement directs that the Forest Service not begin any new large scale ecoregional assessments, such as the Interior Columbia Basin study, without the advance approval of the House and Senate Committees on Appropriations. Funding associated with such initiatives should be clearly displayed in the budget explanatory notes. The managers agree that the Forest Service should provide advance

notice to the House and Senate Committees on Appropriations if small scale, multi-forest assessments are planned that are not reflected in the annual budget justification.

The managers agree to earmarks proposed by the Senate including $300,000 for the great western trail feasibility study in the Intermountain region and $100,000 for Alaska gold rush centennial exhibits and living history presentations, and an increase of $1,000,000 for trail maintenance in the Pacific Northwest region. The managers expect the challenge cost share funding levels for all activities to follow the budget request, with the addition of $500,000 in both the rangeland and forestland vegetation management activities. The managers agree that a total of $4,000,000 should be used for exotic and noxious plant management, and that the Pacific Northwest region is encouraged to fund the Okanogan and the Colville National Forest activities targeted at the eradication of noxious weeds. The managers note that it appears that Forest Service staff in the Pacific Northwest region has attempted to penalize ranchers in perpetuity for alleged grazing violations. The managers expect that any penalties imposed will reflect the severity of the violation and should not be permanent, and that appropriate agency review of the alleged violations should be undertaken to determine if the penalty is still necessary.

The managers are concerned that commitments made in the President's Pacific Northwest Forest Plan be fulfilled. Accordingly, the managers expect the Forest Service to make available for sale in fiscal year 1998 the timber volume specified in alternative 9 of the Record of Decision of the Final Environmental Impact Statement, as revised. This volume should be no less than 763 million board feet, which includes no more than 10 percent of the volume in the form of products which the Final Environmental Impact Statement defines as ''other wood''.

The conference agreement earmarks at least $1,000,000 from the land ownership activity to assist resource input to the relicensing of hydropower projects on national forest lands and to update assessments of hydropower project fair market values. The managers agree with the House language directing the Forest Service to use funds generated as a result of 16 U.S.C. 501 promptly for priority road, trail, and bridge maintenance projects to reduce the significant backlog. The report requested by the House on facility, road and bridge maintenance, repair and replacement needs should indicate clearly how this significant source of funds will be used to improve the transportation infrastructure on national forest system lands. The managers reiterate support for cooperative law enforcement agreements and have included funds for this purpose. The managers are aware of a proposed designation of a high intensity drug trafficking area in the Daniel Boone National Forest, KY. Such a designation would provide for enhanced enforcement which would address marijuana production in the Forest. The managers urge the Forest Service to ensure that appropriate law enforcement personnel are provided to support this initiative once approved.

The managers urge the Forest Service to work cooperatively with Lafayette County, Mississippi, officials in making improvements to county road 244 within the Holly Springs National Forest.

The managers have agreed to revised instructions, provided in the Forest Service administrative provisions, regarding potential Alaska regional office relocations and other Alaska office closures and alterations proposed by the Senate.

Amendment No. 88: Modifies language proposed by the Senate governing the use of national forest system funds for the construction of facilities costing no more than $250,000 to require the advance approval of the House and Senate Committees on Appropriations following established reprogramming procedures. The House had no similar provision.

WILDLAND FIRE MANAGEMENT

Amendment No. 89: Appropriates $584,707,000 for wildland fire management instead of $591,715,000 as proposed by the House and $582,715,000 as proposed by the Senate. The managers agree that $4,000,000 should be used from the fire operations activity for the new fire science and management program to work closely with the similar program at the Department of the Interior.

RECONSTRUCTION AND CONSTRUCTION

Amendment No. 90: Appropriates $166,045,000 for reconstruction and construction instead of $154,522,000 as proposed by the House and $155,669,000 as proposed by the Senate. Increases above the House allowance for recreation roads include $1,000,000 for the Hamma Hamma road in Washington and $800,000 for the Trappers Loop Connector road in Utah.

The managers agree to the following distribution of funds:

Project	*Amount*
Facilities construction:	
Research:	
Inst. Pacific Islands Forestry (HI)	$360,000
Request projects	2,377,000
Subtotal: Research	2,737,000
Fire, Admin., other:	
Boulder Ranger District (CO)	1,000,000
Grey Towers Nat. Historic Site (PA)	2,300,000
Oakridge RD station reconstruction (OR)	4,000,000
Wayne NF supervisor's office (OH)	500,000
Seward RD interagency center (AK)	100,000
Request projects	8,196,000
Subtotal: FAO	16,096,000
Recreation:	
Badin Lake campground (NC)	1,000,000
Barton Flats group campground rehab (CA)	640,000
Chilowee campground rehab (TN)	500,000
Choctaw RD visitor contact center (OK)	445,000
Cradle of Forestry (NC)	1,700,000
Franklin County Dam (MS)	1,000,000
Klahowya campground water system (WA)	50,000
Lake Isabella rehabilitation projects	250,000
Lee Canyon, Tahoe Meadows (NV)	427,000
Midewin National Tallgrass Prairie (IL)	1,600,000
Nantahala NF rehabilitation projects (NC)	400,000
Oklahoma equestrian projects	205,000
Olympic NF campgrounds (WA)	150,000
Pikes Peak Summit House (CO)	1,000,000
Sawtooth NRA Harriman trail structure (ID)	100,000
Spruce Knob repairs (WV)	80,000
Upper Ocoee corridor (TN)	200,000
Waldo Lake rehabilitation (OR)	550,000
Winter Olympic Games 2002 (UT)	1,214,000
Request projects	20,312,000
Subtotal: Recreation	31,823,000
Total facilities construction	50,656,000
Trails Construction:	
Continental Divide Trail (CO)	750,000
Palmetto Trail (SC)	125,000
Sawtooth NRA Harriman Trail (ID)	300,000
Steigerwald Lake (WA)	150,000
Taft Tunnel (ID)	750,000
Tonopah N/S trailhead (NV)	20,000
Request projects	25,200,000
Total Trails Construction	27,295,000
Road Construction:	
Road type:	
Timber Roads	47,400,000
Recreation Roads	27,400,000
General Purpose Roads	13,294,000
Total Road Construction	88,094,000
Total all construction	166,045,000

The managers understand that the Forest Service and the National Park Service have agreed to build and jointly occupy a multi-agency facility for administration, operations, and visitor contact in Utah at Timpanogos Cave National Monument and Unita National Forest, Pleasant Grove ranger district. The managers support these cooperative efforts so long as they result in greater efficiency and better public service. The managers have provided funds elsewhere to the National Park Service for planning and design of this project. The managers expect the Forest Service to include an equal share of total construction costs in its fiscal year 1999 budget submission. The managers have included a total of $100,000 in the fire, administrative and other facilities activity for planning assistance to the new interagency facility in Seward, AK. More detailed instructions for the Seward/Kenai Fjords NP facility are provided under the National Park Service construction account in this statement.

Amendmet No. 91: Deletes language proposed by the Senate earmarking $800,000 for the Trappers Loop Connector Road in the Wasatch-Cache National Forest. The House had no similar provision. Funding for the Trappers Loop Connector Road is included in the Forest Service reconstruction and construction account.

Amendment No. 92: Deletes language proposed by the House and stricken by the Senate providing that not to exceed $25,000,000 remain available until expended for the construction of forest roads by timber purchasers. The managers support the instructions regarding timber purchaser road credits proposed by the Senate.

LAND ACQUISITION

Amendment No. 93: Appropriates $52,976,000 for land acquisition instead of $45,000,000 as proposed by the House and $49,176,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Appalachian Trail	$3,000,000
Arapaho (Wedge), CO	350,000
California wilderness	1,500,000
Chattooga watershed, GA–NC–SC	1,000,000

Project	*Amount*
Cleveland (Rutherford Ranch), CA	1,000,000
Columbia River Gorge, WA	8,000,000
Danial Boone & Red Bird, KY	1,000,000
Gallatin (Yellowstone), MT	1,500,000
Green Mt. (Taconic Grest and Vermont Rivers), VT	2,000,000
Hossier, IN	500,000
Jefferson (Guest River Gorge), VA	300,000
Lake Tahoe, NV–CA	900,000
Los Padres (Big Sur), CA	1,000,000
Michigan Lakes & Streams	250,000
Missouri Ozark Mt. Streams	500,000
Mt. Baker (Skagit), WA	700,000
Nantahala (Thompson River), NC	1,200,000
New Mexico Forests	750,000
Ouachita (Cossotot River), AR	500,000
Ozark (Richland Creek), AR	326,000
Pacific NW Streams	2,500,000
San Bernardino, CA	2,000,000
Sawtooth, ID	1,800,000
Sumter (Lake Jocassee), SC	3,250,000
Uinta (Bonneville shoreline trail), UT	500,000
White Mt. (Lake Tarleton), NH	2,650,000
White River (Warren Lakes), CO	700,000
Wisconsin Wild Waterways	2,000,000
Acquisition management	7,500,000
Cash equalization	1,800,000
Wilderness protection	500,000
Emergency acquisitions	1,500,000
Total	52,976,000

COOPERATIVE, WORK, FOREST SERVICE

Amendment No. 94: Appropriates no funding for cooperative work, Forest Service as proposed by the Senate instead of $128,000,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Amendment No. 95: Deletes language proposed by the Senate exempting Alaska relocations and closures from the requirement to obtain consent from the House and Senate Committees on Appropriations. The House had no similar provision.

Amendment No. 96: Earmarks $2,250,000 for Federal financial assistance to the National Forest Foundation instead of $2,000,000 as proposed by the House and $2,500,000 as proposed by the Senate.

Amendment No. 97: Earmarks as maximum of $750,000 for administrative expenses of the National Forest Foundation instead of $500,000 as proposed by the House and $1,000,000 as proposed by the Senate. The managers understand the initial delays during the establishment of the Foundation and encourage the Foundation to work strenuously to fulfill its authorized purpose and to reduce its future dependence on Federal funds for administrative support.

Amendment No. 98: Modifies language proposed by the Senate regarding reorganization and funding of the Forest Service regional office in Alaska. The House had no similar provision.

The managers note that the Tongass National Forest Land Management Plan reduces the timber allowable sale quantity. It is presumed that the Forest Service will tailor its workforce and organization appropriately. The managers are very concerned about the appearance that expenditures for regional office operations and centralized field costs have risen significantly as a proportion of annual appropriated funds since 1993. The managers recognize that the reduced timber volume offer under this plan will create economic hardships for local communities and that imbalance distribution of remaining Federal jobs and spending in the region may compound those hardships. Accordingly the managers expect the regional forester to conduct a regional work load study and to develop a workforce plan that ensures high levels of customer service throughout the region, preserves the regional headquarters in Alaska, evaluates the need to consolidate and/or relocate offices, including regional the regional office to Ketchikan, makes limited use of centralized support activities from other regions or agencies, and provides for implementation by January 1, 2000. Further, the managers expect the workforce plan to reflect the full participation of affected Southeast Alaska communities and to include a community by community assessment of economic impacts and the rationale used by the regional forester to distribute Federal jobs under the workforce plan. The managers expect that the workforce plan will emphasize retention of experienced personnel for accomplishment of Southeast Alaska's multiple-use resource management mission, will make maximum use of local hiring authority, and will be submitted to House and Senate committees with jurisdiction by March 1, 1998, for review and further guidance, if warranted. Any expenditures at the regional office in excess of $17,500,000 from the funds provided to the region shall be preceded by a 60-day notification to the House and Senate Committees on Appropriations.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 99: Appropriates $362,403,000 for fossil energy research and development instead of $313,153,000 as proposed by the House and $363,969,000 as proposed by the Senate. Increases to the amount proposed by the House include $650,000 in coal research to complete the hospital waste project at the veterans hospital in Lebanon, PA; $48,650,000 in natural gas research, of which $45,000,000 is for advanced turbine systems (rather than consolidating all turbine research in the energy conservation account as proposed by the House), $1,000,000 in the gas to liquids program is for alternative cost shared technology needed to foster the commercialization of ceramic membrane processes, $650,000 is for technology development, and $2,000,000 is for fuel cell systems; $350,000 in oil technology, of which $250,000 is for the northern mid-continent digital atlas and $100,000 is for environmental compliance; and $800,000 for cooperative research and development. Decreases to the House proposed level include $1,000,000 for laboratory/industry partnerships and $200,000 for the risk assessment and groundwater protection data base, both in the oil technology program.

The mangers agree to the following:

1. The $300,000,000 included above the budget request relating to the new PM 2.5 air quality regulations is for data monitoring and development of cost effective control technologies or source production science.

2. The amount provided for fuel cell research assumes that at least an additional $6,000,000 will be made available from the fiscal year 1998 National Security appropriation (Army) for molten carbonate fuel cells; the Department should work with the Defense Department/Army to ensure those funds are transferred appropriately.

3. No assumption is made with respect to downselecting from 3 to 2 contractors in the fuel cell program; the Department of Energy should base its decision on available funding and the merits of the 3 existing projects and report to the Committees on that decision.

4. Project funds for the cooperative research and development program should be distributed equally between the participating sites.

5. No additional funds have been provided for the Gypsy field project in oil technology because the Committees have been assured by the Department that sufficient funds are available for the project through fiscal year 1998.

The managers are aware of the Department's request for proposals relating to new fuel cell research. While not directing the fossil energy program to cancel the RFP, the managers are concerned about the potential outyear costs of new initiatives and expect the Department to proceed cautiously in that regard. The managers understand that the RFP is for studies only and that these studies relate to the strategic plan recently developed by the Federal Energy Technology Center.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

The managers are aware of a proposed pipeline from the Great Plains Gasification Plant in North Dakota to an oil field in Saskatchewan, to provide CO_2 for enhanced recovery of oil. The managers believe that such a pipeline should have a positive effect on the long term stability of the plant and should provide further assistance of payments to be made to the Department from the Great Plains operation over the next 7 years. Therefore, the managers do not object to modifying the existing trust agreement with Dakota Gasification Company (DGC) to: (1) provide DGC a loan up to a maximum of $12.5 million subject to confirmation that the balance of funding for the CO_2 project has been committed; (2) provide such a loan at an interest rate equal to the average rate of other loans for the project acquired by DGC; and (3) secure such loan for the benefit of the Federal Government on terms and conditions equivalent to those agreed to by the other lenders.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 100: Appropriates $107,000,000 for the Naval petroleum and oil shale reserves as proposed by the Senate instead of $115,000,000 as proposed by the House. The decrease below the amount proposed by the House is for operations at the Elk Hills Reserve.

The managers agree that unexpended balances and other available assets and resources may be used for the purpose of privatizing the Rocky Mountain Oilfield Test Center. The Center should be fully privatized no later than fiscal year 2001.

The managers do not object to the recent reprogramming request to realign funds to complete the Elk Hills sale and equity determinations at the Elk Hills Reserve. The managers have agreed to this reprogramming with the understanding that this realignment of funds is needed to ensure that the taxpayer receives the best possible price for the reserve when a sale is consummated.

The managers make no assumption with respect to the sale price of the Elk Hills Reserve. The managers expect the Department to ensure that it receives fair value for the taxpayer in consummating the sale.

ENERGY CONSERVATION

Amendment No. 101: Appropriates $611,723,000 for energy conservation instead of $644,766,000 as proposed by the House and $629,357,000 as proposed by the Senate. Increases to the amount proposed by the House include $4,235,000 for building technology, of which $1,535,000 is for the home energy rating system, $100,000 is for advanced desiccant technology, $500,000 is for Energy Star, $100,000 is for highly reflective surfaces, $750,000 is for codes and standards, $1,000,000 is for the weatherization assistance program,

and $250,000 is for State energy program grants; $2,797,000 for the industry sector, of which $300,000 is for forest and paper products, $333,000 is for steel, $674,000 is for aluminum, $990,000 is for metal casting, $200,000 is for motor challenge, and $300,000 is for management; and $11,875,000 for transportation of which $350,000 is for clean cities, $575,000 is for infrastructures, systems, and safety, $100,000 is for EPACT replacement fuels, $350,000 is for vehicle field test and evaluation, $500,000 is for systems optimization, $500,000 is for electric vehicles, $2,500,000 is for hybrid propulsion, $1,000,000 is for high power energy storage, $4,000,000 is for fuel cell research and development, and $2,000,000 is for light weight materials. Decreases to the amount proposed by the House include $2,500,000 in building technology of which $200,000 is for industrialized housing, $100,000 is for hi-cool heat pump, $800,000 is for VHF light sources, $400,000 is for volume purchases, $300,000 is for roofs, walls, and foundations, $100,000 is for electrochromic research, and $600,000 is for State and local grants management; $46,600,000 for industry sector programs of which $1,000,000 is for chemicals, $45,000,000 is for utility turbine programs (funded in the fossil energy account), $400,000 is for the national industrial competitiveness through energy, environment, and economics (NICE^3) program, and $200,000 is for inventions and innovations; $2,800,000 for transportation which is for high efficiency engine research and development; and $50,000 in policy and management for information and communications.

The managers agree to the following:

1. Of the funds provided for the home energy rating system, at least $250,000 should be set aside for new States. The Department should report to the Committees as soon as possible on plans to phase out the existing 7 pilot States and the procedures under which new States will be considered for participation in the program.

2. The Energy Star program should be carefully examined in the context of reorganizing and streamlining the buildings program. Marketing efforts should be left to the private sector to fund.

3. In the transportation program, the Department should consider using the gas utilization expertise at the University of Oklahoma to the extent that it fits within program priorities and enhances program goals.

4. No funds are provided to initiate a precollege student vehicle competition program.

5. No funds should be redirected from program funding provided by the Congress unless specifically identified in the budget request or in the Committee reports. Any funding realignments are subject to the reprogramming guidelines contained in the front of House Report 105–163 and Senate Report 105–56.

The managers recognize the economic and environmental benefits that could be realized from successful development of an energy efficient and environmentally benign coke making process. Such a technology could help achieve the environmental goals of this Nation, enhance the international competitiveness of the U.S. steel industry and contribute to improved energy efficiency in the steel industry. Because of the significant potential environmental and energy efficiency benefits, the managers encourage the Department to pursue the development of such a technology, either in the energy conservation program or the fossil energy research and development program, with at least a 50 percent cost share from industry.

Amendment No. 102: Earmarks $155,095,000 for energy conservation grant programs instead of $153,845,000 as proposed by the House and $150,100,000 as proposed by the Senate.

Amendment No. 103: Earmarks $124,845,000 for weatherization assistance grants instead of $123,845,000 as proposed by the House and $129,000,000 as proposed by the Senate.

Amendment No. 104: Earmarks $30,250,000 for State energy conservation grants instead of $30,000,000 as proposed by the House and $31,100,000 as proposed by the Senate.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 104: Appropriates $207,500,000 for operation of the strategic petroleum reserve as proposed by the Senate instead of $209,000,000 as proposed by the House and stipulates that these funds are to be repaid from the sale of SPR oil as proposed by the House rather than potential repayment using excess receipts from the sale of the Elk Hills Naval Petroleum Reserves as proposed by the Senate.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 106: Appropriates $66,800,000 for the Energy Information Administration as proposed by the House instead of $62,800,000 as proposed by the Senate.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Amendment No. 107: Makes a technical correction as proposed by the Senate to correct the public law citation for the Energy Policy Act of 1992.

The managers note that the Department of Energy especially in the energy conservation program activity, has been lax in following the reprogramming guidelines prescribed by the Committees. The managers expect the Department to adhere strictly to those guidelines in fiscal year 1998 and thereafter. Quarterly reporting of accounting data is no longer sufficient.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 108: Appropriates $1,841,074,000 for Indian Health services instead of $1,829,008,000 as proposed by the House and $1,958,235,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $5,036,000 for fixed costs in the hospital and clinic programs and a $3,000,000 program increase for the diabetes program; $480,000 for fixed costs in dental health, $245,000 for fixed costs in the mental health program, $105,000 for fixed costs in the alcohol and substance abuse program, $27,000 for fixed costs and a $2,000,000 program increase in contract care, $204,000 for fixed costs in public health nursing, $77,000 for fixed costs in health education, $1,000 for fixed costs for community health representatives, $11,000 for fixed costs for urban health, $27,000 for fixed costs and a $400,000 program increase in Indian health professions for the Indians in psychology program, $462,000 for fixed costs in direct operations, and $9,000 for fixed costs for self governance. A decrease of $18,000 below the proposed House level is applied to contract support costs related to a transfer of funds to the facilities account.

Within the $400,000 increase for the Indians in psychology program, $200,000 is earmarked for the University of Montana.

Amendment No. 109: Earmarks $361,375,000 to remain available for two fiscal years for contract medical care instead of $358,348,000 as proposed by the House and $362,375,000 as proposed by the Senate.

Amendment No. 110: Deletes the Senate earmark for the Office of Navajo Uranium Workers and inserts language placing a cap of $168,702,000 on contract support costs in the Indian Health Service, services account. The House had no similar provision.

INDIAN HEALTH FACILITIES

Amendment No. 111: Appropriates $257,538,000 for Indian health facilities instead of $257,310,000 as proposed by the House and $168,501,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Montezuma Creek health clinic in Utah, $40,000 for fixed costs for sanitation facilities and $588,000 for fixed costs for facilities and environmental health support; and a decrease of $500,000 for modular dental units. Bill language related to the environmental health and facilities support activities included in the House bill but stricken in the Senate bill is retained.

The managers understand that additional funds may be necessary to complete design for three health facility projects that are in the preconstruction phase, and encourage IHS, HHS and OMB to include funding in the fiscal year 1999 budget submission to complete design for the Winnebago Hospital, NE, and the outpatient facilities at Parker, AZ, and Pinon, AZ.

In the fiscal year 1994 Interior Appropriations conference report, the managers agreed that the $465,000 unobligated balance remaining from the Phoenix area regional youth treatment center project was to be used for planning and construction of a satellite facility at an alternate site in Nevada. The managers are concerned about delays in reaching agreement on the issues associated with further progress on this project, and urge the IHS to work with the Washoe Tribe. The managers are aware of the Washoe Tribe's proposal to locate this facility in Gardnerville, Nevada, which has been determined as the alternate site for the treatment center, and encourage IHS to reach closure with the tribe so that services can be provided as soon as possible.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Amendment No. 112: Strikes House language and inserts Senate language on the disposition of funds for transferred functions which tribal contractors no longer wish to retain.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Amendment No. 113: Appropriates $15,000,000 for salaries and expenses of the Office of Navajo and Hopi Indian Relocation as proposed by the Senate instead of $18,345,000 as proposed by the House.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 114: Appropriates $4,250,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development instead of $3,000,000 as proposed by the House and $5,500,000 as proposed by the Senate.

The managers agree that fiscal year 1999 will be the last year Federal funding will be provided.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 115: Appropriates $333,408,000 for salaries and expenses of the Smithsonian Institution instead of $334,557,000 as proposed by the House and $333,708,000 as proposed by the Senate. The difference from the amount proposed by the House consists of decreases of $138,000 for museums and research institutes and $1,011,000 for facilities services, which includes a reduction of $300,000 for utilities.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 116: Appropriates $32,000,000 for repair and restoration of buildings as proposed by the Senate instead of $50,000,000 as proposed by the House.

CONSTRUCTION

Amendment No. 117: Appropriates $33,000,000 for construction as proposed by the Senate. The House proposed no funding. This amount includes $4,000,000 to complete funding for planning and design of the Dulles extension of the National Air and Space Museum and $29,000,000 to begin the first phase of construction for the National Museum of the American Indian Mall Museum.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 118: Appropriates $6,192,000 for repair, restoration and renovation of buildings instead of $6,442,000 as proposed by the House and $5,942,000 as proposed by the Senate. The reduction from the House level is to be taken from the increase provided for backlog maintenance needs.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 119: Appropriates $5,840,000 for salaries and expenses of the Woodrow Wilson International Center for Scholars as proposed by the Senate instead of $1,000,000 as proposed by the House. The managers agree to the following distribution of funds:

Fellowships	$920,000
Scholar support	634,000
Public service	1,516,000
Administration	1,247,000
Smithsonian fee	139,000
Conf./Outreach	909,000
Space	475,000

The managers remain concerned about the serious deficiencies in the Center's management and organization as outlined in the National Academy of Public Administration (NAPA) review. That review outlines 27 specific recommendations for corrective action. The managers will continue to monitor carefully the Center's progress in addressing the critical recommendations, including establishing a clearly defined mission, improving the process for selecting fellows and involving them in relevant debates on public policy issues, and improving the connection between the Center's fellows and the public programs. To that end the Inspector General also has been asked to oversee the Center's implementation of the NAPA recommendations and report to the Committees.

While the managers are encouraged that there have been changes in the management of the Center, and an Interim Director has been named to oversee the-day-to-day operations of the Center, they also strongly encourage the Center's Board to take a more active role in guiding the Center. The managers also strongly encourage the search committee to expedite the search for a new Director, The Center should keep the goal of bridging the gap between the worlds of scholarship and public policy in the forefront of its mission and increase the interaction between the fellows, the programs and the public policy makers.

In allocating funds provided to the Center, the managers have sought to help implement one of the NAPA recommendations by deciding a greater portion of appropriated funds to public service program. encourage public knowledge, education, understanding and appreciation of the arts and have agreed that the Endowment should stress service to underserved populations. The conference agreement also reduces the size of the National Council of the Arts, but adds 6 Members of Congress to the Council.

The managers have agreed to $31,822,000 for program grants instead of $37,435,000 as proposed by the Senate. The conference agreement provides $25,486,000 for State grants instead of $22,250,000 as proposed by the Senate and $6,952,000 for the State set-aside instead of $6,069,000 as proposed by the Senate. The managers also encourage the NEA to consider carefully the merits of various non-professional grant applicants when making awards and to not award grants only to professionals. The managers have agreed to a reduction of $566,000 for administration compared to the level proposed by the Senate and agree that further administrative streamlining may be warranted in future years. The NEA should develop a proposed structuring of the administrative budget of the agency that more accurately reflects the Endowment's various functions and activities, such as executive direction, costs for grant review by NEA, panel review and Council costs, outreach, computers, policy and planning and other elements funded from administrative dollars. Other NEA issues are discussed under Amendments No. 139, 140 and 156.

MATCHING GRANTS

Amendment No. 122: Appropriates $16,760,000 for NEA matching grants as proposed by the Senate instead of zero as proposed by the House.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 123: Appropriates $96,800,000 for grants and administration of the National Endowment for the Humanities as proposed by the Senate instead of $96,100,000 as proposed by the House. The agreement includes $700,000 above the House level as proposed by the Senate for fixed cost increases.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

Amendment No. 124: Appropriates $23,280,000 for grants and administration of the Office of Museum Services instead of $23,390,000 as proposed by the House and $22,290,000 as proposed by the Senate. Program funds are provided to support the following activities: $16,060,000 for operations; $3,130,000 for conservation; $2,200,000 for services to the profession; and $1,890,000 for administrative costs. From services to the profession, the managers provide $1,000,000 for National Leadership Projects that are collaborative museum/library endeavors.

COMMISSION OF FINE ARTS

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Amendment No. 125: Appropriates $7,000,000 for National capital arts and cultural affairs grants as proposed by the Senate instead of $6,000,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Amendment No. 126: Appropriates $2,745,000 for salaries and expenses of the Advisory Council on Historic Preservation as proposed by the Senate instead of $2,700,000 as proposed by the House.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 127: Appropriates $5,740,000 for salaries and expenses of the National Capital Planning Commission (NCPC) as proposed by the Senate instead of $5,700,000 as proposed by the House. The managers agree that the Commission should participate in the operation of the Washington Geographic Information System project. However, the managers do not intend for the NCPC to become the primary operator of this system nor should funds appropriated under this Act be used to promote that purpose. If funds are available from other sources, the NCPC is encouraged to apply its special planning expertise to the project and collaborate in the operation of such a system.

TITLE III—GENERAL PROVISIONS

Amendment No. 128: Modifies language proposed by the House and stricken by the Senate continuing the moratorium on the use of funds for preparing, promulgating, implementing or enforcing interim or final rules or regulations dealing with the management of subsistence fishing in Alaska waters. The modification continues the moratorium through December 1, 1998, and amends the Alaska National Interest Lands Conservation Act.

The language contains four subsections. Subsection (a) prohibits the Federal government from asserting jurisdiction, management or control prior to December 1, 1998, over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act or Alaska Statehood Act.

Subsection (b) amends the Alaska National Interest Lands Conservation Act (ANILCA) in a number of ways. Subsection (2) clarifies that the term ''Federal land'' in ANILCA does not include lands owned by the State of Alaska, or Native Corporations or other private owners. Neither subsection (2) nor any other provision of this section overturns, or shall be construed to overturn the decision of the Ninth Court of Appeals in *State of Alaska v. Babbitt* (73 F.3d 698) (commonly known as the Katie John case).

Subsection (c) contains a savings clause specifying that neither this section nor amendments made by this section in any way affect assertions of Native governmental authority over lands or persons, the existence or nonexistence of Indian country, whether or not ANILCA is Indian Law, or the Secretary of the Interior's authority under section 1314(c) of ANILCA.

Subsection (d) specifies that amendments made by subsection (b) shall only be effective for the purposes of determining whether the State of Alaska's laws provide for the definition, preference, and participation required in sections 803, 804, and 805 of ANILCA, including as amended by this section, unless and until laws are adopted in the State of Alaska which provide these things. Subsection (d) specifies that the amendments made to ANILCA by subsection (b) will be repealed on December 1, 1998, unless such laws are adopted in Alaska by December 1, 1998.

Amendment No. 129: Deletes language proposed by the House and stricken by the Senate regarding the export of timber from the western United States and inserts language making a technical correction to the Hudson River Valley National Heritage Area legislation.

Amendment No. 130: Modifies language proposed by the House and modified by the Senate regarding funding for the office of western director and special assistant to the Secretary of Agriculture to provide that funding from this Act for the office is allowed up to the amount provided from this appropriation in fiscal year 1997.

Amendment No. 131: Retains language proposed by the House limiting competition on watershed restoration contracts for the ''Jobs in the Woods'' component of the President's Forest Plan for the Pacific Northwest in fiscal year 1998. The Senate proposed making the provision permanent.

Amendment No. 132: Modifies language proposed by the House and stricken by the

Senate which permits all fees collected through the recreation fee demonstration program to be used by the collecting agency. The modification adds language stipulating that the National Park Service should pay administrative costs for collecting fees from the funds that are retained by each collecting unit.

Amendment No. 133: Modifies House language as proposed by the Senate limiting the use of recreation fees to construct visitor centers or other permanent structures, to permit such construction if the total estimated cost does not exceed $500,000.

Amendment No. 134: Modifies language proposed by the House and stricken by the Senate on the Interior Columbia River Basin. The modified language instructs the Secretaries of Agriculture and the Interior concerning the Interior Columbia River Basin draft environmental impact statements (DEIS). The managers remain extremely concerned about the huge cost and time involved in this project, but the managers want to see the project come to a conclusion. The managers also are concerned that additional social and economic analyses are required and that the Administration has not been forthcoming regarding the potential impacts that the implementation of the projects may eventually have on this large area of the West. The bill language provides that the Secretaries will report to the Congress on the estimated impacts of the proposed project. As a result of the revised bill language concerning additional analysis to be conducted for the projects, the managers expect that additional time will be required for public comment on the DEIS but the managers do not specify a time for the comment period. However, the managers expect the agencies to address fully the implementation of these projects in their fiscal year 1999 budget justifications and convey to the Congress a sense of the scope, impact and cost for implementation.

Amendment No. 135: Deletes language proposed by the House and inserts alternative language proposed by the Senate that establishes a framework for Alaska native governance of the Alaska Native Medical Center.

Amendment No. 136: Inserts language which modifies a Senate provision precluding Alaska native villages from entering into a compact or contract which would withdraw funds out of the Alaska native regional health care corporations, changes a date in the provision, and amends the Coast Guard Authorization Act of 1996 to reflect a change in the use of property transferred to a native village. The House had no similar provision.

The managers have changed the effective date in this section to permit an existing contract with the Indian Health Service to be executed. The managers also have added a subsection making changes in a land conveyance to the Ketchikan Indian Corporation to reflect agreed to changes regarding the use of the property.

Amendment No. 137: Amends language inserted by the House and stricken by the Senate regarding the eviction of certain people from property in Sleeping Bear Dunes National Lakeshore. The revision allows the National Park Service to pursue such evictions provided that 90 days notice is given and provided that funds are available for the removal of the structures to be vacated. Fair market value rates will be charged while any occupancy continues beyond an expired reservation.

Amendment No. 138: Amends language included by the House and stricken by the Senate to prohibit agencies funded in this bill from expending funds for the nomination of sites under the Man and Biosphere Program until legislation specifically authorizing this program is enacted. With regard to both the World Heritage and Man and Biosphere programs, the managers agree that designation of U.S. sites under these programs cedes absolutely no authority to the United Nations or other international organizations, and should not be construed as imposing any new land use restrictions on lands included in either program. The managers further agree that agencies involved in both of these programs should redouble efforts to involve the public fully in deliberations over possible designations.

Amendment No. 139: Includes language proposed by the Senate restricting grant making to individuals, sub-granting, and seasonal support by the National Endowment for the Arts. The House had no similar provision.

Amendment No. 140: Inserts language proposed by the Senate authorizing the National Endowment for the Arts and the National Endowment for the Humanities to raise funds and deposit them in special interest bearing accounts for future use. The House had no similar provision. The managers believe that it is appropriate to provide the agencies with this ability, particularly in light of recent program reductions and discussions within Congress to establish a supplemental endowment fund. The managers intend that this new authority be used to augment the Federal contribution to the endowments. The managers also recognize that there is a potential for traditional arts and humanities fundraising efforts to be affected by NEA and NEH's use of this authority. Thus, the endowments should seek to tap new sources of support for the arts and humanities and not pursue a shift of private giving from the non-Federal to the Federal arts and humanities communities.

Amendment No. 141: Inserts language proposed by the Senate providing for reciprocal delegations of authorities between the Secretaries of the Interior and Agriculture for the management of public lands and forests. The House had no similar provision.

Amendment No. 142: Modifies language proposed by the Senate concerning a limitation of funding for any activities associated with national forest land management planning. The modification allows those plans currently in the revision process or under court order to proceed. The House had no similar provision.

The managers agree that the forest planning regulations which the Forest Service has written, but no implemented, are long overdue. The managers are concerned that the Secretary's decision to appoint a panel of scientists to study further the land management planning process will result in continued and unacceptable delay, and therefore the managers strongly urge the Secretary to issue new rules in at least an interim form while the panel conducts its review. The managers agree that a final rule should be published promptly and that the forest planning revision process should proceed in an orderly and efficient manner so that forest plans reflect current social, economic and resource conditions. Consequently, the managers have provided bill language which requires that no funding for new forest plan revisions be provided until a new rule is published. The new planning rule may be either interim or final. National forests which published a Notice of Intent to Revise their plan by October 1, 1997, or are court ordered, are exempt from this restriction. The managers agree that national forests may continue to amend existing forest plans following established procedures.

Amendment No. 143: Modifies language proposed by the Senate that prevents funding from being used to complete or issue the five year program under the Forest and Rangeland Renewable Resources Planning Act (RPA review). The House had no similar provision.

The managers are concerned about the duplication between the requirements for developing a strategic plan under the Government Performance Results Act (GPRA) and the RPA review. The managers encourage the Forest Service to work diligently to make the GPRA process successful, and to more efficiently use resources which otherwise may have been spent on the duplicative RPA review.

Amendment No. 144: Modifies language proposed by the Senate concerning cooperative agreements for watershed restoration and enhancement by limiting the application of the provision to fiscal year 1998 rather than making the provision permanent as proposed by the Senate. The House had no similar provision. The managers encourage the Forest Service to use this authority carefully for new projects so that they do not displace higher priority work on national forest system lands.

Amendment No. 145: Amends the Franklin Delano Roosevelt commission statute (69 Stat. 694) as proposed by the Senate to provide for the termination of the commission and for the use of unexpended funds for maintenance, repair, interpretation, and education. The House had no similar provision.

Amendment No. 146: Modifies language inserted by the Senate concerning priority land exchanges within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area by limiting the Secretary's authority to facilitate the transfers to September 30, 2000. The Senate proposed permanent authority. The House had no similar provision.

Amendment No. 147: Adjusts the boundaries of the Wenatchee National Forest in Chelan County, Washington, as proposed by the Senate. The House had no similar provision.

Amendment No. 148: Inserts language proposed by the Senate restricting the use of funds by the Department of Energy for the Center of Excellence for Sustainable Development without the approval of the House and Senate Committees on Appropriations. The House had no similar provision.

The managers are concerned that the Department of Energy established the Center of Excellence for Sustainable Development without justification and approval through the budget process. The information provided in response to Committee questions on the center has been slow in coming and less than candid. The Committees will review the merits of this program in the context of fiscal year 1999 budget priorities. In the meantime the managers expect the Department to use the funds and staffing devoted to this effort to work on the programs approved in the fiscal year 1998 budget. The Department should report to the Committees by October 30, 1997, on how it intends to comply with this direction. The managers caution the Department that incomplete and inaccurate information in this regard is unacceptable. The managers further expect the Department to disclose fully any other instances in which programs have been started without approval through the budget process. The fiscal year 1999 budget request must clearly identify each program to be funded in the appropriate activity. Initiatives by the Assistant Secretary should be clearly identified and justified in the policy and management account.

Amendment No. 149: Limits the use of funds to amend or replace Bureau of Land Management regulations on surface mining as proposed by the Senate. The House had no similar provision.

Amendment No. 150: Modifies language inserted by the Senate conveying the Wind

River Nursery site to Skamania County, Washington, in exchange for approximately 120 acres of county land. The House had no similar provision. The new language authorizes the Secretary of Agriculture to negotiate with Skamania County for the exchange of the Wind River Nursery site for county owned lands in the Columbia River Gorge National Scenic Area. During a two-year period ending September 30, 1999, the nursery is not to be conveyed to another party and is to be maintained in a tenantable condition by the Forest Service. The exchange is to be for equal value, however, the Secretary may accept services from the County in lieu of cash as the Secretary deems appropriate and the County may make cash payments in installments not to exceed a period of 25 years. The managers expect that future agreements should protect natural, cultural and historic values, the existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail as well as the continued research on the Wind River Experimental Forest and the T.T. Munger Research Natural Area. If the Secretary and the County fail to reach an agreement on an equal value exchange as defined in the section, the nursery site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

Amendment No. 151: Deletes language inserted by the Senate exempting residents in communities which receive lower-than-authorized PILT payments from paying user fees under the recreation fee demonstration program for the White Mountain National Forest in New Hampshire and inserts language renaming Walnut Creek NWR, IA as the Neal Smith National Wildlife Refuge.

Amendment No. 152: Modifies language proposed by the Senate restricting the use of funds for introduction of grizzly bears in the Selway-Bitteroot area of Idaho and Montana and for certain consultations under section 7(b)(2) of the Endangered Species Act. The House had no similar provision. The modification to the Senate language allows the Fish and Wildlife Service to publish a Record of Decision on the Environmental Impact Statement.

The managers understand that the Fish and Wildlife Service will not introduce any grizzly bears into the Selway-Bitteroot area in fiscal year 1998 and expect the Service to continue and intensify its public outreach and consultation efforts in the area.

Amendment No. 153: Modifies language proposed by the Senate concerning increases in fees charged by the Forest Service for recreation residence special use permit holders. The modification provides that fee increases which are in excess of 100% of the previous year's fees should be phased in over a three-year period in equal annual installments. The House had no similar provision.

Amendment No. 154: States the Sense of the Senate that Civil War battlefields should be preserved and should be given special priority in land acquisition. The House had no similar provision.

Amendment No. 155: States the Sense of the Senate that hearings should be conducted and legislation brought forward during this Congress addressing the issues of Federal and private sector funding for the arts and any needed modifications to the current funding mechanism. The House had no similar provision.

Amendment No. 156: Amends language proposed by the Senate to include additional reforms to the National Endowment for the Arts. The section provides, as proposed by the Senate, that the Endowment should give priority in making grants and awards to underserved populations. The House had no similar provision. In addition, the conference agreement has added a provision that gives priority to grants which encourage public knowledge, education, understanding and appreciation of the arts. The amendment also limits funding for any one State to no more than 15% of the total grants available during the fiscal year. Grants with a national impact, or which are applicable to several States, are exempted from the calculation.

Finally, the conference agreement revises the current size and composition of the National Council of the Arts. The reform reduces the total of Presidential appointments to the Council from 26 to 14 and adds 2 Representatives appointed by the Speaker of the House, 1 Representative appointed by the Minority Leader of the House, 2 Senators appointed by the Majority Leader of the Senate and 1 Senator appointed by the Minority Leader of the Senate. To allow a smooth transition to this new Council, existing members are allowed to serve out their terms. Congressionally appointed members are to serve in an ex officio capacity for two-year terms beginning in odd numbered years; however, initial appointments shall be made by December 31, 1997, with terms expiring December 31, 1998. The managers agree that Congressional members of the Council shall be non-voting on matters involving application review and grant selection, but may provide advice and counsel on broader issues of policy and procedure. As Presidentially appointed members' terms expire, new members may not be appointed by the President until the Council membership falls below 14. The managers intend that the newly comprised Council work diligently with the Chairperson of the NEA to foster public service that is more sensitive to the needs and desires of the nation.

Amendment No. 157: Modifies language proposed by the Senate directing the Forest Service to develop export policy and procedures on the use of Alaskan western red cedar and domestic processing. The House had no similar provision. The managers are very concerned that Alaska western red cedar is being exported despite significant domestic processing demand within the contiguous United States. The new language specifies conditions under which Alaska western red cedar will be made available for domestic processors in the contiguous United States at domestic rates. The managers are hopeful that these changes will allow greater use of western red cedar from Alaska in the contiguous 48 States. The managers have also included language which specifies that Forest Service timber sale accomplishments in Alaska will be based on volume sold and that all Alaska yellow cedar may be sold at export rates at the election of the timber sale holder. The managers direct the Forest Service to implement this policy no later than January 1, 1999.

Amendment No. 158: Deletes Senate language providing that $4,000,000 from previously appropriated emergency funds be used for reconstructing the Oakridge Ranger Station in Oregon, contingent upon a Presidential declaration and Congressional designation of an emergency, and inserts language restricting the use of funds for redevelopment of Pennsylvania Avenue. Funding for reconstructing the Oakridge Ranger Station has been included in the Forest Service reconstruction and construction account.

The amendment inserts language prohibiting the expenditure of any funds related to the redevelopment of Pennsylvania Avenue, including planning, without prior approval from the Committees. The managers believe that this project should not be initiated in fiscal year 1998 without the concurrence of Congress. The managers understand that this project will cost some $40,000,000 and are not inclined to provide additional resources at this time even for planning. The managers also are concerned that funds previously expended for planning on this project which were to be reimbursed by other Federal agencies have never been repaid. Given the significant backlog in critical repair and maintenance needs that the National Park Service has identified, this project should not commence until it has been carefully considered against other National Park Service priorities.

Amendment No. 159: Limits the use of funds as proposed by the Senate to implement guidelines or adjust plans for National Forests in Arizona and New Mexico. The House had no similar provision.

Amendment No. 160: Amends section 6901(2)(A)(i) of title 31, United States Code as proposed by the Senate to include populations of cities within unorganized boroughs of Alaska for the purposes of PILT. The House had no similar provision.

Amendment No. 161: Amends section 103(c)(7) of Public Law 104–333 as proposed by the Senate to provide for the appointment and compensation of officers of the Presidio Trust. The House had no similar provision.

TITLE IV

Amendment No. 162: Deletes language proposed by the House and stricken by the Senate which would have established a deficit reduction lock-box ledger in the Congressional Budget Office and inserts language establishing an environmental restoration fund.

The managers have agreed to establish an environmental restoration fund with the interest accrued to such fund to be used, subject to appropriation, to address deferred maintenance needs of the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service and the Forest Service; to provide for payments to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field; and to carry out marine research activities in the North Pacific. The fund is a modification of the National Parks and Environmental Improvement Fund proposed by the Senate in Amendment No. 81. The land acquisition element in the original proposal has been removed.

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

Amendment No.163: Modifies language proposed by the Senate that provides funding for priority land acquisitions and exchanges. The House had no similar provision. The modifications to the Senate language provide for a total fund of $699,000,000 and make a portion of these moneys available for critical maintenance needs.

The managers have provided funds for high priority land acquisitions and exchanges as requested by the Administration despite serious reservations about two particular acquisitions—the Headwaters Forest in California and the Crown Butte/New World Mine in Montana (near Yellowstone National Park). Because of the many uncertainties surrounding these acquisitions, the managers have agreed to bill language outlining the specific requirements that must be met before the acquisitions can be consummated.

The managers agree that legislation authorizing the Headwaters Forest acquisition should require a current appraisal, require a completed Environmental Impact Statement on the habitat conservation plan, cap the Federal commitment at the negotiated $250,000,000, address the issue of public access and require that the State of California's $130,000,000 cost share be available before release of the Federal funds. The managers, at the request of the Administration, have agreed that the Secretary of the Interior

may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's opinion of value should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Funding for the New World Mine acquisition is capped at $65,000,000 and the managers believe this acquisition also should have a current appraisal. The Secretary of Agriculture may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's valuation should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Both the Headwaters Forest appraisal and the Crown Butte/New World Mine appraisal should conform to the Department of Justice ''Uniform Appraisal Standards for Federal Land Acquisitions'' and other applicable laws and regulations governing Federal land acquisitions. The Comptroller General must review both appraisals, including an examination of the methodology and data used in conducting the appraisals. The Comptroller General should submit the results of each of those reviews to the appropriate Secretary and to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the House and Senate Committees on Appropriations.

With respect to the remainder of the $699,000,000, the managers have agreed to make these funds available with the understanding that they will be used over the next four fiscal years for high priority land acquisitions and exchanges, to address the critical repair and restoration needs of the four land management agencies, and for other purposes consistent with the Land and Water Conservation Fund statute. The managers agree to allocate the remaining $384,000,000 as follows: $10,000,000 for a payment to Humboldt County, California as part of the Headwaters Forest land acquisition; $12,000,000 for repair and maintenance of the Beartooth Highway as part of the Crown Butte/New World Mine land acquisition; and $272,000,000 to the Department of the Interior and $90,000,000 to the Forest Service for other priority land acquisitions and critical maintenance needs.

The Secretaries of Agriculture and the Interior should submit requests for the use of the remaining land acquisition and maintenance funds to the Committees for approval following reprogramming procedures. The managers encourage the Secretaries to emphasize the critical maintenance backlogs that they have identified on the public lands, which total more than $2 billion for the Forest Service and approximately $7 billion for the land management agencies in the Department of the Interior. Requests for additions to the public lands base should be evaluated carefully, and priority should be given to those acquisitions which complete a unit, consolidate lands for more efficient management, or address critical resource needs.

The funds provided for a payment to Humboldt County and the funds provided by repair and maintenance of the Beartooth Highway are included because of the unusual circumstances associated with the Federal acquisition of the Headwaters Forest and the Crown Butte mining interests. The managers do not intend Land and Water Conservation Fund moneys to be used for these purposes in the future nor to imply that Federal land acquisitions entitle local or State governments to mitigation payments either from the Land and Water Conservation Fund or from other sources.

Major Land Acquisitions—Authorization for Headwaters Forest and Crown Butte Properties. Sections 501 through 504 authorize two land acquisitions requested by the Administration, to be funded from the Land and Water Conservation Fund—the Crown Butte acquisition in Montana and the Headwaters Forest acquisition in California. The managers have provided, in section 504, a 180 day review period during which the authorizing committees will examine the issues associated with these transactions and recommend any appropriate changes to the relevant statutory language contained herein. The managers believe that it is appropriate that a more measured and thorough review of these complex and costly acquisitions be undertaken by the legislative committees of jurisdiction during the 180 day review period. The managers have agreed to allow amendments that are reported from the authorizing committees within the 180 days to be incorporated into the anticipated fiscal year 1998 supplemental appropriations bill. That bill is expected to be available as early as February 1998. After the 180 day review, if no modifications have been enacted, the funds appropriated by this Act are authorized to be spent, consistent with the requirements set forth in this title.

The managers are concerned that the government not pay more than fair value for the Crown Butte and Headwaters Forest properties. The managers expect that at least 30 days prior to executing each of these transactions, the Secretary of Agriculture, with respect to the Crown Butte acquisition, and the Secretary of the Interior, with respect to the Headwaters Forest acquisition, shall issue an opinion of value to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government in each transaction. The respective Secretary is expected to assume responsibility for the basis and accuracy of the opinion.

Headwaters Forest. Subsection (a) of section 501 contains the authority for up to $250 million to be spent for acquisition of the Headwaters Forest and a clause ensuring that any substantial expansion of the forest be specifically authorized.

Subsection (b) makes the authorization effective until March 1, 1999, consistent with the anticipated timetable for completion of the Headwaters Forest Agreement. This leaves some latitude for unforeseen delays while providing a date certain for the transactions authorized. This subsection also makes the authorization contingent on the following conditions: 1) the State of California must provide its share of the cost, 2) the State must approve the Pacific Lumber Company's sustained-yield plan, 3) the Pacific Lumber Company must withdraw two lawsuits, 4) an incidental take permit is issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, 5) there must be an appraisal, 6) to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, 7) there must be a completed environmental impact statement on the habitat conservation plan and full compliance with the National Environmental Policy Act, and 8) there must be adequate provision for public access. The authorizing committees can examine the status of each condition during the 180 day review period specified in section 504.

Subsection (c) permits the Headwaters Forest to be acquired for a value which differs from the appraisal if the Secretary of the Interior certifies in writing to Congress that such action is in the best interest of the United States.

Subsection (d) contains provisions to facilitate issuance of a Habitat Conservation Plan (HCP) based on sound science by requiring the Secretary of the Interior and the Secretary of Commerce to report to Congress on the scientific and legal standards and criteria that will be used for developing the HCP and the incidental take permit. The Endangered Species Act and its implementing regulations outline the HCP standard for listed species that are to be covered by an incidental take permit. The governing standards for unlisted species (candidate and noncandidate) that are to be covered by an incidental take permit are identical to the standards for listed species. An HCP provides assurances to a land owner for all species, both listed and unlisted, that are covered by an incidental take permit. The subsection also recognizes the uniqueness of the Headwaters Forest HCP. Should the HCP and incidental take permit not be approved, the agencies must report to the House and Senate committees on why the proposals were not sufficient to meet the applicable standards, and the statutory citations therefor, indicated by the Secretary under subsection (d)(1). This subsection does not change or waive any public review through normal National Environmental Policy Act and Endangered Species Act processes.

Subsection (e) directs a payment of $10,000,000 to Humboldt County within 30 days of acquisition of the Headwaters Forest. While the use of the funds by the county has no limitation, the payment is to offset economic impacts to the county government from the acquisition and to compensate the county for enhanced public safety costs associated with the controversy surrounding the Headwaters Forest.

Subsection (f) ensures that the Federal portion of the Headwaters Forest is considered Federal land for purposes of payments in lieu of taxes.

Subsection (g) limits the amount of Federal funds (above the first $100,000) that can be used each year for managing the Headwaters Forest to fifty percent of the total cost of management. This will ensure that there will be cost-sharing with other entities such as the State of California, charitable trusts and conservation groups. Language authorizing acceptance of donations is included to facilitate such cost-sharing. It is anticipated that the State of California will assume its proportional share of land management costs, but substantial funds should come from charitable foundations and groups that have favored acquisition of the Headwaters Forest. The Administration has consistently maintained that Federal funding needed for management of the Headwaters Forest will be minimal and that the State of California will participate in funding out-year activities associated with the acquired land. No detailed dollar figures were provided by the Administration for activities related to management of the forest. The authorized level of funding for the Federal portion of the Headquarters Forest has been set at $300,000, with an exception for law enforcement and emergencies. During the 180 day review period, the Administration should submit its financial plan for the Headwaters Forest to the authorizing and appropriations committees so that the committees can evaluate whether the authorized level of funding is appropriate.

Subsection (h) provides to the Secretary of the Interior, with concurrence of the Governor of California, authority to manage the Headwaters Forest in a trust. Because the property will be acquired jointly by the State of California and the United States, a trust arrangement allowing for management by both parties through a board of trustees may be a useful way to structure the relationship. This matter can be considered further during the 180 day review period and regularly thereafter.

Subsection (i) requires a concise management plan for the Headwaters Forest by the Secretary of the Interior or the Headwaters Trust once the Forest is acquired. The goals of the management plan, as stated by the Administration, should be to conserve and study the land, and the fish, wildlife and forests occurring on such land, while providing recreation opportunities, scientific study, and other management needs. Bill language is included to make clear that the National Environmental Policy Act (NEPA) applies to development and implementation of the management plan, notwithstanding the option to perform some of these functions through a trust. The Administration has stated the NEPA analyses are being developed for the proposed Headwaters Forest Habitat Conservation Plan. The managers believe that the New World Mine acquisition also must comply with NEPA requirements. The managers expect the relevant documents to be completed prior to consummation of each of these land acquisitions.

Subsection (j) provides the Secretary of the Interior with the flexibility to develop cooperative arrangements with the State of California for land management, allowing sharing of goods, services, and personnel when it is mutually beneficial and in the best interest of the United States.

Consistent with the final rule designating critical habitat for the marbled murrelet, the managers understand that when the HCPs are completed and incidental take permits for marbled murrelets issued, critical habitat will be lifted from the private landowners whose land is covered by the incidental take permit.

Crown Butte Properties. Section 502 authorizes the acquisition of land and interests in land that were to be used for development of a mine in Montana, north of Yellowstone National Park. The acquisition is to be made subject to the following conditions: 1) a consent decree has been lodged in the litigation regarding the cleanup of historical contamination in the New World Mining District; 2) an appraisal of the Crown Butte mining interests has been completed and, to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, and 3) the requirements of the National Environmental Policy Act have been fulfilled.

The managers have also incorporated a provision from the August 12, 1996 Agreement so that Crown Butte will place $22,500,000 in an account to perform cleanup activities.

This section also authorizes a one-time appropriation of $10,000,000 to make critical repairs to the Beartooth Highway, which serves Yellowstone National Park, and a one-time appropriation of $2,000,000 for snow removal and maintenance of the road by the Department of Agriculture. These funds will become available within 30 days of the acquisition of the Crown Butte properties.

The managers expect the Secretary of Agriculture to work with other Federal officials and with the appropriate officials in the States of Montana and Wyoming on a long term solution for repair and maintenance of the Beartooth Highway, including the potential use of Federal highway funding. The managers intend that the $12,000,000 provided in this conference agreement be used on an interim basis, pending a long term resolution. The managers do not object to the Department of Agriculture entering into cooperative arrangements with the Department of the Interior, or with other entities, to make the most effective use of the funds provided for repair and maintenance of the Beartooth Highway.

The managers expect the Administration to provide, to the Committees and to the legislative committees of jurisdiction, a letter with appropriate documentation verifying that Crown Butte Mines, Inc. has obtained agreement from private property owners whose interests are necessary to fulfill the Agreement. This letter must be provided no later than 30 days prior to the United States payment to Crown Butte Mines, Inc.

Section 503 provides for the transfer of $10 million in Federal mineral assets to the State of Montana at such time as the Crown Butte/New World Mine acquisition is consummated. The negotiated acquisition of the New World Mine preempted the usual NEPA and State permitting processes, which would have provided a forum in which the significant impact of the acquisition on State revenues could have been considered.

The managers expect the Secretary of the Interior, in consultation with the Governor of Montana, to study potential mineral resource development in Montana. This study should facilitate discussions between the State of Montana and the Federal government regarding future coal and other mineral development in Montana. The study should identify coal and other mineral assets that may be appropriate for transfer to the State of Montana. The study also should review opportunities for developing super compliance coal which meets the standards of Phase II of the Clean Air Act; focus, in particular, on development opportunities in the Ashland, Birney, Decker area of Montana; and examine the issue and impact of the checker board ownership pattern in Montana on coal development. The managers note that no new Federal coal reserves, other than reserves near existing mines, have been made available in Montana since 1969.

Section 504 provides a 180 day period during which neither the Headwaters Forest land acquisition nor the Crown Butte land acquisition may occur unless separate authorizing legislation is enacted. Within 120 days of enactment, the Secretaries of Agriculture and the Interior must individually report to the Committee on Resources of the House of Representatives and the Senate Committee on Energy and Natural Resources on the status of their efforts to meet the conditions set forth in this title involving the acquisition of interests to protect and preserve the Headwaters Forest and to protect and preserve Yellowstone National Park. For each day beyond 120 days after enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, the 180 day period is extended by one day.

Section 505 makes a technical correction to the Land and Water Conservation Fund statute to move a provision from title II to title I.

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

Amendment No. 164: Modifies language provided by the Senate under Title VI to make technical corrections to the Forest Resources Conservation and Shortage Relief Act of 1990 (FRCSRA) which provide for correct format, and changes Section 605(3)(3)(B) of the Act to require the use of regulations in effect prior to September 8, 1995, during the interim period in which the Forest Service prepares new regulations to implement the Act. An additional technical correction is made to Section 602(A)(3) to clarify which paragraph is referred to by the language. The House had no similar provision.

The managers have included language in Title VI which amends the Act by: (1) making the Washington State log export ban a complete and permanent ban on log exports from the State's public lands; (2) making it clear that FRCSRA does not restrict the domestic movement and processing of private timber, except in the State of Idaho; (3) protecting the ability of private tree farmers in Washington State to freely market their private timber; (4) making some timber processing facilities located in western Washington State more competitive for timber harvested from private and Federal lands; (5) providing the Secretaries concerned with discretion to impose reasonable timber making, branding, and reporting requirements and to waive such requirements when appropriate; and (6) clarifying other enforcement and due process provisions in FRCSRA.

The managers note that on September 8, 1995, the U.S. Department of Agriculture issued and made effective immediately the final rule to implement FRCSRA. Because of the unintended consequences and adverse impact this rule would have on the western forest products industry, particularly in Washington State—where Federal timber harvests have fallen from 1.5 billion board feet prior to enactment of FRCSRA to less than 100 million board feet in 1996, the final rule was suspended, resulting in the maintenance of the Washington State log export ban at 100%. Title VI clarifies and preserves the optimization of domestic processing of timber in western states and avoids the imposition of restrictions on the domestic transportation and processing of timber harvested on western private property. The managers provide the following explanation of each section:

Section 2(a). Use of Unprocessed Timber—Limitation on Substitution of Unprocessed Federal Timber for Unprocessed Timber from Private Land

Section 490(a)(3) provides that the substitution prohibitions do not limit the acquisition of timber originating on Federal land west of the 119th meridian in Washington State by a buyer-broker (i.e., a company that only exports timber originating from private lands owned by a third party, and over which the company has no long term exclusive harvest rights). A buyer-broker may acquire timber originating on Federal land west of the 119th meridian in Washington State either directly from a Federal agency or indirectly from a third party. A buyer-broker does not need a sourcing area in order to acquire timber harvested from Federal land west of the 119th meridian in Washington State. The 119th meridian in Washington State is a limitation only on the area from which a buyer-broker may acquire timer harvested from Federal land. There is no geographic limitation on the area from which a buyer-broker may acquire private timber, whether for purposes of domestic processing or export. Moreover, a buyer-broker may domestically process any private timber.

The sourcing area provisions in Section 490(c) of FRCSRA enable persons to freely market timber harvested from private lands in some areas and domestically process timber harvested from Federal lands in other

areas. Section 490(c) of FRCSRA is modified to differentiate between sourcing areas for processing facilities located within Washington State and sourcing areas for processing facilities located outside of the State.

Section 490(c)(3)(d) provides holders of sourcing areas for facilities located outside of Washington State with the option of excluding any or all Washington lands from their sourcing areas. This provision makes Washington timberlands irrelevant to sourcing area determinations for processing facilities located outside of Washington. The language provides that the Secretary may not condition approval of a sourcing area for a processing facility located outside of Washington on the inclusion or exclusion of any Washington lands. The decision to include or exclude Washington lands in such a sourcing area is at the discretion of the sourcing area applicant or holder.

Except for Idaho. FRCSRA's sourcing area provisions in section 490(c)(3) are modified to make it clear that FRCSRA does not restrict the domestic transporting or domestic processing of timber harvested on private property. Sourcing area boundaries for processing facilities in States other than Idaho and Washington are to be determined on private timber export and Federal timber sourcing patterns. Sourcing area boundaries for processing facilities located in Idaho are to be determined by Federal and private timber sourcing patterns, which could lead to restrictions on the domestic processing of some private timber at processing facilities with sourcing areas in Idaho.

Section 490(c)(6) provides for the establishment of sourcing areas in the State of Washington. The boundaries of such a sourcing area will be a circle, the radius of which will be the furthest distance the sourcing area applicant or holder proposes to haul timber harvested from Federal land to its processing facility. Sourcing area boundaries for processing facilities located in Washington State are solely determined by the sourcing area applicant or holder.

Section 490(c)(7) provides that a sourcing area is relinquished when the sourcing area holder provides written notice to the appropriate regional forester of the U.S. Forest Service, and that timber harvested from private land in a sourcing area is exportable after that sourcing area is relinquished and timber from Federal land in that sourcing area is no longer in the sourcing area holder's possession. Whether a sourcing area holder's Federal timber contract is still open is irrelevant to whether private timber from a relinquished sourcing area is exportable. This provision also makes it clear that relinquishing a sourcing area does not affect the exportability to timber harvested from private land located outside of the sourcing area.

A new subsection is added to FRCSRA at 490(d) to make it clear that nothing in this section restricts or authorizes restrictions on the domestic transportation or processing of timber harvested from private lands, with one exception. Because sourcing areas for processing facilities located in Idaho will be determined by both Federal and private timber movements, the Secretary may develop rules that prohibit an Idaho sourcing area holder from processing private timber that originates outside of its sourcing area. There are no restrictions on the domestic movement or processing of private timber for processing facilities located in States other than Idaho.

Section 2(b). Restriction on exports of unprocessed timber from State and public land

Section 491(b)(2) is amended by striking the requirement that the Secretary reduce the Washington State log export ban to 400 million board feet. That requirement is replaced with a permanent ban on the export of all logs harvested from lands owned by the State of Washington.

Section 3. Monitoring and enforcement

Section 492(c)(2)(C) has been added to clarify that the Secretary concerned must consider the seriousness of the offense in determining whether to impose a penalty for a particular violation of FRCSRA or its regulations. Where the Secretary determines there has been a minor infraction of FRCSRA or its regulations, the Secretary should delegate the matter to the contracting officer who need not impose a penalty.

Section 492(d)(1) has been modified to ensure that a person receives due process prior to the imposition of debarment for a violation of FRCSRA or its regulations.

Section 4. Definitions

Section 493(3) defines ''minor infraction'' to provide flexibility for inadvertent and minor non-compliance of the provisions in FRCSRA and its regulations.

Section 493(4) defines ''northwestern private timber open market area'' as the State of Washington. That phrase is used throughout this title where new provisions are added to protect investments in processing facilities and private timberlands located in Washington State.

Section 493(9)(B)(ix) defines ''unprocessed timber'' to allow exporters of private logs to acquire and domestically process incidental volumes of grade 3 and grade 4 saw logs from Federal lands into chips. This provision also allows exporters of private logs to domestically process small volumes of such logs into other products.

Section 493(11) defines ''violation'' to make it clearer that a person should not be penalized $50,000 or more per log handled in violation of FRCSRA or its regulations, but rather that ''violation'' refers to transgressions under a contract or purchase order.

Section 5. Regulations and review

Section 495 has been expanded to specify that reasonable painting and branding and reporting requirements should be imposed only where the benefits outweigh the burdens of complying with such requirements. Because of the minimal risk of small logs being exported and the substantial burdens of complying with painting and branding requirements, this provision prevents requiring painting or branding on the face of any log that is less than seven inches in diameter. Likewise, this provision restricts the imposition of painting and branding requirements on timber harvested from private land where the transfer of such timber is to a person who is eligible to purchase timber from Federal land or if both parties certify that the logs will be processed at the delivery site.

The Secretary is also authorized to waive painting and branding requirements if it is determined that the risk of export or substitution is low in the region. The Secretary may also waive painting and branding requirements for unprocessed timber originating from private lands within an approved sourcing areas.

The Secretary may also waive painting and branding requirements for timber harvested from Federal land if there has been no exporting in the area for an extended period, and a person certifies that any unprocessed timber to which the waiver applies that goes outside of that area will be branded.

Title VI provides for the issuance of new FRCSRA regulations no later than June 1, 1998, and provides further that the regulations under this title that are currently in effect (the regulations that were in effort prior to September 8, 1995) shall remain in effect until new regulations are issued.

TITLE VII—MICCOSUKEE SETTLEMENT

Amendment No. 165: Makes technical corrections to language proposed by the Senate dealing with the transfer of lands for the Miccosukee Tribe of Florida. The House had no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the Committee of Conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$13,514,435,000
Budget estimates of new (obligational) authority, fiscal year 1998	13,799,946,000
House bill, fiscal year 1998	12,952,829,000
Senate bill, fiscal year 1998	13,756,350,000
Conference agreement, fiscal year 1998	13,789,438,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+275,003,000
Budget estimates of new (obligational) authority, fiscal year 1998	−10,508,000
House bill, fiscal year 1998	+836,609,000
Senate bill, fiscal year 1998	+33,088,000

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, JR.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,
Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY,
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,
BARBARA BOXER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STRICKLAND (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. CHAMBLISS (at the request of Mr. ARMEY), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. SCOTT, for 5 minutes, today.
Mr. FORD, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. BARRETT of Wisconsin, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Ms. SANCHEZ, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. CLEMENT, for 5 minutes, today.
Mr. PRICE of North Carolina, for 5 minutes, today.
Mr. LEWIS of Georgia, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Mrs. MALONEY of New York, for 5 minutes, today.

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

Mrs. LINDA SMITH of Washington, for 5 minutes each day, today and on October 23 and 24.
Mr. KOLBE, for 5 minutes, today.
Mr. FOLEY, for 5 minutes each day, today and on October 23.
Mr. METCALF, for 5 minutes, today.
Mrs. ROUKEMA, for 5 minutes, today.

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

Mr. FROST, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.

EXTENSION OF REMARKS

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

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Ms. SANCHEZ.
Mr. SERRANO.
Mr. HAMILTON.
Mr. STOKES.
Mr. NEAL of Massachusetts.
Mr. KANJORSKI.
Mr. BERMAN.
Mr. STARK.
Mr. RANGEL.
Mr. SHERMAN.
Mr. WAXMAN.
Mr. FILNER.
Mr. LANTOS.
Mr. MANTON.
Mr. SKELTON.
Mr. HOYER.
Mr. DELLUMS.
Mr. MILLER of California.
Mr. BENTSEN.

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

Mr. PORTMAN.
Mr. WELDON of Pennsylvania.
Mr. PAPPAS.
Mr. COBLE.
Mr. GILMAN.
Mr. WELLER.

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

Mr. RANGEL.
Mr. MCINNIS
Ms. NORTON.
Mr. PAYNE.
Mr. HASTINGS of Florida.
Mr. ENGEL.
Mr. POSHARD.
Mr. OBERSTAR.
Mr. HORN.
Mr. BONIOR.
Mr. HOBSON.
Mr. BOB SCHAFFER of Colorado.
Mr. KIND.
Mr. STUPAK.

JOINT RESOLUTION 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 joint resolution of the House of the following title:

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 8 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, October 23, 1997, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report and amended report concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the 1st and 2d quarter of 1997, by various Committees, House of Representatives, pursuant to Public Law 95–384, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses	2/16	2/24	France						560.00		560.00
			Germany								
			Russia								
Committee total									560.00		560.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

F. JAMES SENSENBRENNER, Chairman, Oct. 7, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Sonny Callahan	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. Sonny Callahan	5/8	5/10	Nicaragua		468.50		(3)				468.50
Hon. Rodney Frelinghuysen	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1997—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. David Hobson	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							6,742.25				6,742.25
Hon. Joseph Knollenberg	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
William Inglee	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
	5/8	5/10	Nicaragua		468.50		(3)				468.50
Mark Murray	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Juliet Pacquing	3/30	4/2	Korea		915.00						915.00
	4/2	4/5	Japan		900.00						900.00
Commercial air							4,468.95				4,468.95
Timothy Peterson	6/13	6/17	France		1,168.00				50.00		1,218.00
Commercial air							3,549.05				3,549.05
John Plashal	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							4,247.25				4,247.25
	6/14	6/16	France		873.00		(3)				873.00
	6/16	6/16	Belgium								
John Shank	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Total					15,526.44		19,007.50		50.00		34,583.94
Surveys and Investigations staff:											
Frederick A. Brugger	6/22	6/25	Colombia		493.00		2,651.95		60.00		3,204.95
	6/25	6/28	Peru		585.75						585.75
Robert W. Catlin, Jr.,	6/24	6/25	Barbados		470.25		2,338.96		31.90		2,841.11
	6/26	6/28	Panama		258.00						258.00
John J. Clynick	6/21	6/25	Uruguay		677.00		3,739.95		42.40		4,459.35
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Norman H. Gardner	5/3	5/7	Israel		1,045.00		4,901.85		6.00		5,952.85
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		81.00		4,497.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
James A. Higham	6/24	6/26	Barbados		470.25		2,338.96		68.00		2,877.21
	6/26	6/28	Panama		258.00						258.00
Susan G. Joseph	6/22	6/25	Colombia		493.00		2.651/95		62.50		3.207.45
	6/25	6/28	Peru		585.75						585.75
Robert J. Reitwiesner	5/3	5/7	Israel		1,405.00		4,901.98		87.00		6,033.98
	5/7	5/10	Egypt		459.25						459.25
	6/24	6/26	Barbados		470.25		2,338.06		112.00		2,920.31
	6/26	6/28	Panama		258.00						258.00
R.W. Vandergrift, Jr.	5/3	5/7	Israel		1,045.00		4,901.98		579.00		6,525.98
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		402.74		4,819.69
	6/25	6/27	Argentina		448.00						448.00
	6/27	6/30	Chile		651.00						651.00
Frank J. Waldburger	6/21	6/25	Uruguay		677.00		3,739.95		38.00		4,454.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Peter T. Wyman	5/3	5/7	Israel		1,045.00		4,901.85		36.01		5,982.86
	5/7	5/10	Egypt		459.25						459.25
	6/22	6/25	Colombia		493.00		2,651.95		112.90		3,257.85
	6/25	6/28	Peru		585.75						585.75
Committee total					19,844.00		49,539.29		1,719.45		71,102.74

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON, Chairman, Oct. 1, 1997.

EXECUTIVE COMMUNICATIONS, ETC.

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

5536. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Addition to Quarantined Areas [Docket No. 97–102–1] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5537. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Removal of Quarantined Areas [Docket No. 97–056–7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5538. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cyromazine; Pesticide Tolerances for Emergency Exemptions [OPP–300563; FRL–5748–9] (RIN: 2070–AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5539. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pyrithiobac Sodium Salt; Time-Limited Pesticide Tolerance [OPP–300548; FRL–5742–5] (RIN: 2070–AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5540. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Amendment to the Production Flexibility Contract Regulations (RIN: 0560–AF25) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5541. A letter from the Manager, Federal Crop Insurance Corporation, Risk Management Agency, transmitting the Agency's final rule—General Crop Insurance Regulations, Canning and Processing Tomato Endorsement; and Common Crop Insurance Regulations, Processing Tomato Provisions [7 CFR Parts 401 and 457] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5542. A letter from the Director, Washington Headquarters Services, Department of Defense, transmitting the Department's final rule—OCHAMPUS; State Victims of Crime Compensation Programs; Voice Prostheses [DoD 6010.8–R] (RIN: 0720–AA42) received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

5543. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Restrictions on Advances to Non-Qualified Thrift Lenders [No. 97–62] (RIN: 3069–AA60) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5544. A letter from the Chairman, National Credit Union Administration, transmitting a report on flood insurance compliance by insured credit unions, pursuant to section 529(e)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994; to the Committee on Banking and Financial Services.

5545. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Risk-Based Capital Requirements; Transfers of Small Business Loan Obligations with Recourse [Docket No. 97–17] (RIN: 1557–AB14) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5546. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 111, H.R. 680, H.R. 2248, S. 996 and S. 1198, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

5547. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2016, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

5548. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Test Procedures for Furnaces and Boilers [Docket No. EE-RM–93–501] (RIN: 1904–AA45) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5549. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Procedural Rules for DOE Nuclear Activites; General Statement of Enforcement Policy [10 CFR Part 820] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5550. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Approval Under Section 112(1); State of Iowa [IA 016–1016; FRL–5912–6] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5551. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Kentucky; Indiana [KY95–9722a; IN82a-1; FRL–5901–2] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5552. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program [Region II Docket No. NY22–1–163, FRL–5913–7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5553. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Hampshire [NH–7157a–FRL–5906–8] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5554. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 [CC Docket No. 96–128] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5555. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure [CC Docket No. 96–262; CC Docket No. 94–1; CC Docket No. 91–213] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5556. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Administration of the North American Numbering Plan; Toll Free Service Access Codes [CC Docket No. 92–237; CC Docket No. 95–155] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5557. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees [WT Docket No. 97–82] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5558. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revision of the Requirements for a Responsible Head for Biological Establishments [Docket No. 96N–0395] (RIN: 0910–AA93) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5559. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 93F–0111] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5560. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Notice to Employees; Minor Amendment (RIN: 3150–AF66) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5561. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 98–03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5562. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98–02), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5563. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period October 1, 1996 to March 31, 1997 listing Voluntary Contributions made by the United States Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

5564. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 105–159); to the Committee on International Relations and ordered to be printed.

5565. A letter from the Director, Bureau of the Census, transmitting the Bureau's final rule—Census Tract Program for Census 2000—Final Criteria [Docket No. 961213356–7236–02] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5566. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List [97–018] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5567. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Bering Sea and Aleutian Islands [Docket No. 961107312–7021–02; I.D. 101497A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5568. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [Docket No. 970730185–7206–02; I.D. 093097A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5569. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No. 961107312–7021–02; I.D. 101697A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5570. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Illinois Regulatory Program [SPATS No. IL–081–FOR] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5571. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Schedules of Controlled Substances Placement of Butorphanol into Schedule IV [DEA–

166F] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5572. A letter from the Chairman, National Bankruptcy Review Commission, transmitting a report entitled ''Bankruptcy: The Next Twenty Years,'' pursuant to Public Law 103–394; to the Committee on the Judiciary.

5573. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Death of Appellant During Pendency of Appeal (RIN: 2900–AI86) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5574. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability [Rev. Proc. 97–50] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5575. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 97–49] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5576. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97–44] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on 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:

Mrs. MYRICK: Committee on Rules. House Resolution 274. Resolution providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes (Rept. 105–336). Referred to the House Calendar.

Mr. REGULA: Committee of Conference. Conference report on H.R. 2107. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–337). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Budget discharged from further consideration. H.R. 2513 referred to the Committee of the Whole House on the State of the Union.

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. TAUZIN:

H.R. 2691. A bill to reauthorize and improve the operations of the National Highway Traffic Safety Administration; to the Committee on Commerce.

By Mr. SMITH of Oregon:

H.R. 2692. A bill to combine the Consolidated Farm Service Agency and the Natural Resources Conservation Service of the Department of Agriculture as a single agency under an Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services and to ensure the equitable treatment of socially disadvantaged farmers and ranchers and employees of the Department who are members of a socially disadvantaged group; to the Committee on Agriculture.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. PASCRELL, Mr. COOK, Mrs. TAUSCHER, Mrs. KELLY, Mr. NEAL of Massachusetts, Ms. DELAURO, Mr. NADLER, Mr. LANTOS, Ms. SLAUGHTER, Ms. KILPATRICK, Mr. FROST, Mr. SANDERS, Mrs. THURMAN, Mr. FALEOMAVAEGA, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. MCGOVERN, Mr. EVANS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. GREEN, Mr. DELLUMS, Mr. RUSH, Mr. FILNER, Mr. SHERMAN, Ms. HOOLEY of Oregon, Mr. FAZIO of California, Mr. WYNN, Mr. BROWN of California, Mr. CONDIT, Mr. CLEMENT, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. HINCHEY, Mr. FORD, Ms. ESHOO, and Ms. WOOLSEY):

H.R. 2693. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, 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. GILMAN:

H.R. 2694. A bill to amend the Immigration and Nationality Act to authorize the Attorney General to continue to treat certain petitions approved under section 204 of such Act as valid notwithstanding the death of the beneficiary; to the Committee on the Judiciary.

By Ms. SANCHEZ:

H.R. 2695. A bill to amend the Internal Revenue Code of 1986 to encourage new school construction through the creation of a new class of bond; to the Committee on Ways and Means.

By Mr. COBLE (for himself and Mr. SHAW):

H.R. 2696. A bill to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mrs. MALONEY of New York, Mrs. MORELLA, Ms. WOOLSEY, Mr. PASCRELL, Mr. DELLUMS, and Mr. DINGELL):

H.R. 2697. A bill to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health with respect to research and related activities concerning osteoporosis and related bone diseases; to the Committee on Commerce.

By Mrs. MCCARTHY of New York:

H.R. 2698. A bill to improve teacher preparation at institutions of higher education; to the Committee on Education and the Workforce.

By Mrs. MORELLA (for herself, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY of New York, Ms. WOOLSEY, Ms. NORTON, Ms. WATERS, Mr. DAVIS of Virginia, Mr. HAYWORTH, Mr. UNDERWOOD, Mr. MEEHAN, Mr. WAXMAN, Mr. DELAHUNT, Mr. PASCRELL, Mr. LANTOS, and Mr. NADLER):

H.R. 2699. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Government Reform and Oversight.

By Ms. NORTON:

H.R. 2700. A bill to direct the Secretary of the Interior to convey certain lands to the District of Columbia for use for single-family homes for low and moderate income individuals and families; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. STARK, Mr. CARDIN, Mr. LEWIS of Georgia, and Mr. BECERRA):

H.R. 2701. A bill to amend title XVIII of the Social Security Act to carve out from payments to MedicareChoice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Ways and Means, 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 Mr. SCHUMER:

H.R. 2702. A bill to authorize the Secretary of the Treasury to ban the importation of firearms that have been cosmetically altered to avoid the ban on semiautomatic assault weapons; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 2703. A bill to amend part C of title XVIII of the Social Security Act to continue after 2001 continuous open enrollment of individuals in MedicareChoice plans; to the Committee on Ways and Means, 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 Ms. WOOLSEY (for herself, Mrs. MALONEY of New York, Mr. PASCRELL, Mrs. MORELLA, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2704. A bill to amend the Public Health Service Act to provide for an increase in the amount of funding for the information clearinghouse on osteopoorsis, Paget's disease, and related bone disorders; to the Committee on Commerce.

By Mr. PORTER (for himself, Mr. DREIER, and Mr. LANTOS):

H. Con. Res. 172. Concurrent resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes; to the Committee on International Relations.

By Mr. SAM JOHNSON:

H. Con. Res. 173. Concurrent resolution honoring the accomplishments of the many Americans who contributed to the development of supersonic flight technology; to the Committee on Science.

By Mr. WEXLER (for himself, Mr. ACKERMAN, and Mr. LANTOS):

H. Con. Res. 174. Concurrent resolution expressing the sense of Congress regarding the anti-American and anti-Semitic remarks of Malaysian Prime Minister Mahathir Mohamed; to the Committee on International Relations.

By Mr. GANSKE:

H. Res. 275. A resolution to amend the Rules of the House of Representatives to permit a committee to vote to allow live media coverage of the testimony of a subpoenaed witness; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. PORTER introduced A bill (H.R. 2705) for the relief of Edwardo Reyes and Dianelita Reyes; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

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

H.R. 27: Mr. DICKEY and Mr. PETERSON of Minnesota.

H.R. 59: Mr. DELAY.

H.R. 182: Mr. CONYERS.

H.R. 351: Ms. RIVERS.

H.R. 371: Mr. OLVER.

H.R. 614: Mr. WELDON of Florida.

H.R. 676: Mr. BOUCHER, Mr. OBERSTAR, Mr. ACKERMAN, and Mr. FROST.

H.R. 777: Mr. LANTOS.

H.R. 815: Mr. JACKSON, Mr. RANGEL, Mr. SMITH of Oregon, and Mr. SISISKY.

H.R. 820: Mr. SCOTT.

H.R. 946: Mr. HAYWORTH.

H.R. 979: Mr. SMITH of Michigan, Mr. KILDEE, Mr. HOLDEN, Mr. KANJORSKI, Ms. MILLENDER-MCDONALD, Mr. DIXON, and Ms. ROYBAL-ALLARD.

H.R. 983: Ms. MILLENDER-MCDONALD.

H.R. 986: Mrs. CUBIN.

H.R. 991: Mr. BAESLER, Mr. ETHERIDGE, Mr. SKAGGS, Mr. MCINTYRE, and Mr. OLVER.

H.R. 992: Mr. WELDON of Florida and Mrs. CHENOWETH.,

H.R. 1023: Mr. LOBIONDO.

H.R. 1161: Mr. KLECZKA.

H.R. 1173: Mr. BOSWELL, Mr. BALDACCI, Ms. JACKSON-LEE, Mr. JACKSON, Ms. WOOLSEY, Mr. KENNEDY of Rhode Island, Mr. QUINN, Mr. MOAKLEY, Mr. LEWIS of Kentucky, Mr. HEFNER, Ms. SANCHEZ, Mr. PASTOR, Mr. BILBRAY, Mr. LAMPSON, and Mr. SANDLIN.

H.R. 1227: Mr. GOODLING, Mr. CHAMBLISS, and Mrs. NORTHUP.

H.R. 1231: Mrs. EMERSON.

H.R. 1232: Mr. MCGOVERN, Mr. MILLER of California, Mr. CALLAHAN, Mrs. FOWLER, Mr. DELAHUNT, and Mr. SMITH of Michigan.

H.R. 1234: Mr. RUSH.

H.R. 1256: Ms. STABENOW and Mrs. CHENOWETH.

H.R. 1371: Mr. KUCINICH.

H.R. 1387: Mr. SUNUNU.

H.R. 1415: Mr. TRAFICANT, Mr. MCINTYRE, Mr. MCNULTY, Mr. BOEHLERT, Mr. WATKINS, and Mr. DREIER.

H.R. 1425: Mr. STARK.

H.R. 1531: Mr. WAXMAN.

H.R. 1541: Mr. CAPPS.

H.R. 1542: Mr. INGLIS of South Carolina, Mr. MCINNIS, and Mr. NETHERCUTT.

H.R. 1773: Mr. EWING.

H.R. 1800: Mr. OBEY and Mr. PETERSON of Minnesota.

H.R. 1842: Mr. HILL and Mr. BLILEY.

H.R. 1891: Ms. RIVERS.

H.R. 2011: Mr. RYUN.

H.R. 2021: Mr. MILLER of Florida.

H.R. 2023: Mr. DELLUMS.

H.R. 2029: Mr. COBURN, Mr. RYUN, and Mr. LIVINGSTON.

H.R. 2110: Mr. WEXLER.

H.R. 2172: Mr. BOSWELL.

H.R. 2189: Mr. FROST, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. LAMPSON, Mr. TRAFICANT, Mr. FALEOMAVAEGA, Mr. BLILEY, Mr. ACKERMAN, Mr. KUCINICH, and Ms. KAPTUR.

H.R. 2191: Mr. BARR of Georgia.

H.R. 2194: Mr. TRAFICANT, Mrs. JOHNSON of Connecticut, Mr. TOWNS, Mrs. MALONEY of New York, Mr. LANTOS, Mr. RANGEL, Mrs. LOWEY, Mr. ENGEL, and Mr. MANTON.

H.R. 2292: Mr. BAESLER, Mr. ROYCE, Mr. GREENWOOD, Mrs. KENNELLY of Connecticut, Ms. RIVERS, Mr. FAZIO of California, Mr. SANDLIN, Mr. SCHIFF, and Mr. BENTSEN.

H.R. 2327: Mr. SHERMAN, Mr. FAWELL, Ms. DUNN of Washington, Mr. FROST, Mr. WHITE, Mr. EVANS, Mr. PETERSON of Minnesota, Mr. RAMSTAD, and Mr. SOUDER.

H.R. 2377: Mr. BAKER, Mr. MCDADE, Mr. UPTON, and Mr. PICKERING.

H.R. 2380: Mr. CHRISTENSEN.

H.R. 2392: Mr. GOODLING.

H.R. 2476: Mr. DINGELL.

H.R. 2483: Mr. MCKEON, Mr. ISTOOK, Mr. SHIMKUS, Mr. BUNNING of Kentucky, Mr. CHAMBLISS, Mr. CALVERT, Mrs. FOWLER, Mr. BOB SCHAFFER, Mr. GOODLING, Mr. CANNON, and Mr. HILL.

H.R. 2488: Ms. FURSE.

H.R. 2549: Mr. TRAFICANT.

H.R. 2560: Mr. DOOLEY of California, Mr. MCINTYRE, Ms. NORTON, Mr. UNDERWOOD, Mrs. MALONEY of New York, and Mr. PASTOR.

H.R. 2563: Mr. CHAMBLISS, Mr. HASTINGS of Washington, Mr. MENENDEZ, Mr. CALLAHAN, and Mr. NETHERCUTT.

H.R. 2584: Mr. SANDERS and Mr. WEYGAND.

H.R. 2595: Mr. BOEHNER and Mr. PICKERING.

H.R. 2598: Mr. TIAHRT.

H.R. 2609: Mr. MORAN of Kansas, Mr. CHAMBLISS, Mr. HOLDEN, Mr. CLYBURN, and Mr. KLUG.

H.R. 2611: Mr. COBURN and Mr. LEWIS of Kentucky.

H.R. 2625: Mr. COX of California, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. KINGSTON, Mr. COOKSEY, Mr. JONES, Mr. LARGENT, Mr. BALLENGER, Mr. GINGRICH, Mr. BUNNING of Kentucky, Mr. KING of New York, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. SALMON, Ms. DUNN of Washington, and Mr. MCINTOSH.

H.R. 2627: Mr. WEYGAND and Mr. MILLER of Florida.

H.R. 2639: Mr. PRICE of North Carolina, Mr. YATES, Mr. KING of New York, and Mr. DEUTSCH.

H.R. 2689: Mr. RADANOVICH.

H.J. Res. 78: Mr. GEKAS, Mr. GIBBONS, Mr. HASTINGS of Washington, Mr. RIGGS, Mr. SHUSTER, Mr. BRADY, and Mr. CANNON.

H.J. Res. 95: Mr. TANNER, Mr. JENKINS, Mr. HILLEARY, Mr. CLEMENT, Mr. FORD, Mr. DUNCAN, Mr. WAMP, Mr. GORDON, Mr. THOMPSON, Mr. TAYLOR of Mississippi, Mr. PARKER, and Mr. PICKERING.

H. Con. Res. 100: Mr. ANDREWS, Mr. SAXTON, Mr. HASTINGS of Florida, Mr. RUSH, Mr. PORTER, and Mr. WAMP.

H. Con. Res. 107: Mr. DEUTSCH.

H. Res. 37: Mr. WAMP and Mr. TAYLOR of Mississippi.

H. Res. 259: Ms. LOFGREN, Mr. HAMILTON, Mr. BALDACCI, Mr. CAPPS, Ms. RIVERS, Mr. FAZIO of California, Mrs. MALONEY of New York, Mr. ENGEL, Mr. BARRETT of Wisconsin, and Mr. POSHARD.

H. Res. 268: Mr. DELAY and Mr. SOUDER.