# EXTENSIONS OF REMARKS

## RELEASE OF HOUSE RESOURCE COMMITTEE MAJORITY STAFF REPORT ON SUBPOENAED NATIONAL MONUMENT DOCUMENTS

**HON. JAMES V. HANSEN**

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 7, 1997*

Mr. HANSEN. Mr. Speaker, the majority staff of the House Committee on Resources will release a staff report today on the subpoenaed national monument documents received from the Clinton administration. The documents show that the designation of the Grand Staircase-Escalante National Monument was politically motivated and probably illegal.

It is very important that these documents are opened up for public scrutiny. They show the American people that the designation of the monument was politically motivated; that the administration engaged in a concerted effort to keep everything secret in order to avoid public scrutiny; and that the administration admitted that the lands in question weren't in danger and weren't among the lands in this country most in need of monument designation.

The White House abused its discretion in nearly every stage of the process of designating the monument. It was a staff drive effort, first to short-circuit a congressional wilderness proposal, and then to help the Clinton-Gore re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened. ''I'm increasingly of the view that we should just drop these Utah ideas * * * these lands are not really endangered.''—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

The documents also show that claims by the administration that the monument was created to save Utah from foreign coal mining was nothing but a front to make the idea look legitimate. The administration was already several months into the process of creating the monument before anyone even mentioned throwing in the Kaiparowits Plateau. The administration added the Kaiparowits, with its attendant Andalex coal leases, at the last minute so they could claim they were protecting some endangered lands.

The documents are loaded with evidence of a concerted effort by the Department of the Interior [DOI] and CEQ staff to circumvent the National Environmental Policy Act [NEPA]. Staff was aware that the law requires NEPA compliance, with its attendant public input process, when national monument proposals come out of an agency. The documents show how DOI and CEQ spent months trying to create a paper trail to make it look like the idea came directly from the President. ''We need to build a credible record that will withstand legal challenge * * * so [this] letter needs to be signed asap so that the secretary has what looks like a credible amount of time to do his investigation of the matter.''—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

Probably the most telling, yet unsurprising, document is where CEQ Chair Kathleen McGinty fills-in President Clinton on the Political Purpose of the national monument designation: ''It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration * * *''

Ms. McGinty continued by noting that: ''[T]he new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area.''

Ms. McGinty noted that there would be a few who would oppose the designation, but they were generally those ''who in candor, are unlikely to support the Administration under any circumstances''. Translation: Designating the monument would help get Clinton western electoral votes in the 1996 election. He would lose Utah, but he didn't have a chance at winning that State anyway.

These documents should make it clear to the American people that the real reason that the administration used the Antiquities Act on these lands was to circumvent congressional involvement in public land decisions, to evade the public involvement provisions of NEPA, and to use our public lands as election year props. The Clinton administration's actions show not only a disregard for the State of Utah, but a blatant disregard for America's public land laws, and a contempt for the democratic process.

[105th Congress, 1st Session, House of Representatives]

LEGISLATIVE STUDY AND INVESTIGATIVE STAFF REPORT ON ABUSE OF DISCRETION IN THE CREATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT UNDER THE ANTIQUITIES ACT, NOVEMBER 7, 1997

Majority staff of the Committee on Resources, Subcommittee on National Parks and Public Lands submits the following staff report to the Members of the Committee, ''Behind Closed Doors: The Abuse of Trust And Discretion In The Establishment Of The Grand Staircase-Escalante National Monument.''

INTRODUCTION: COMMITTEE REVIEW OF THE DESIGNATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

On September 18, 1996, President Clinton established, by Presidential Proclamation No. 6920, the 1.7-million-acre Grand Staircase-Escalante National Monument (''Utah Monument'') in Utah pursaunt to Section 2 of the Act of June 8, 1906 (''Antiquities Act''). The Committee on Resources has jurisdiction over the Antiquities Act and the creation of the Monument, jurisdiction that is delegated under Rule 6(a) of the Rules For the Committee on Resources (''Committee Rules'') to the Subcommittee on National Parks and Public Lands.

The Subcommittee has a continuing responsibility under Rule 6(d) of the Committee Rules to monitor and evaluate administration of laws within its jurisdiction. In relevant part, that rule states: ''. . . Each Subcommittee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those statutes or parts of statutes, the subject matter of which is within that Subcommittee's jurisdiction; and the organization, operation, and regulations of any Federal agency or entity having responsibilities in or for the administration of such statutes, to determine whether these statutes are being implemented and carried out in accordance with the intent of Congress. . . .''

The Subcommittee, in concert with the Full Committee, undertook its Rule 6(d) responsibility when, on March 18, 1997, Chairman Young and Subcommittee Chairman Hansen initiated a review of the creation of the Monument. Some records were produced by the Council on Environmental Quality (CEQ) and the Department of the Interior (DOI) pursuant to a March 18, 1997, request to the Chair of CEQ and the Secretary of DOI related to the review. The documents that were produced were utilized by unanimous consent at a Subcommittee oversight hearing on April 29, 1997.

However, CEQ Chair Kathleen McGinty refused to produce copies of embarrassing documents that revealed why—beyond the reasons stated in the proclamation and publicly—the monument was created. Staff was given access to some of the documents and Members to others in an attempt to accommodate stated Administration desires to keep the documents secret because the Administration claimed they might be ''privileged.'' However, constitutional executive privilege was never officially asserted by the President over the documents.

Chairman Young was delegated the authority to subpoena Monument records by the Committee on September 25, 1997. After a protracted legal exchange between the White House and Committee staff on the applicability of privileges to the documents withheld, Chairman Young, on October 9, 1997, issued the subpoena for the records withheld by CEQ Chair Kathleen McGinty.

The subpoena was unreturned on the due date and the committee staff began preparing a contempt resolution. However, on Wednesday, October 22, 1997, the Counsel to the President, Charles F.C. Ruff, produced the subpoenaed documents to the Committee.[1]

The delay—from March through October 1997—in producing the ultimately subpoenaed documents thwarted efforts of the Subcommittee and Committee to properly undertake its duties under Article I and Article IV of the Constitution and Rule 6(d) of the Committee Rules. The Subcommittee hearing on the matter had already been held and the remaining days in the first session of the 105th Congress were limited. The Committee is actively considering legislation that modifies the Antiquities Act.

As a result of the delay, the Chairman and Subcommittee Chairman requested this legislative study and investigative majority

[1] Based upon representations of CEQ staff, all documents in the possession of CEQ regarding the Grand Staircase-Escalante National Monument have now been produced.

staff report. The request was to analyze and append relevant documents produced under the subpoena that show if there were abuses of discretion by the President and his advisors in the execution of the Antiquities Act to create the Utah Monument and whether that Act was being implemented and carried out in accordance with the intent of Congress. This legislative study and report responds to that request. This report was developed for and provided to Members of the Committee on Resources for their information so that Members can undertake their legislative and oversight responsibilities under the Constitution, the Rules of the House of Representatives, and the Rules for the Committee on Resources.

THE LAW: ANTIQUITIES ACT MONUMENT DESIGNATIONS

The Antiquities Act can be summarized simply. By proclamation, the President may reserve federal land as a National Monument. The land must be a historic landmark, a historic or prehistoric structure, or an object of historic or scientific interest. In addition, the reserved area must ''in all cases'' be ''confined to the smallest area compatible with the proper care and management of the objects to be protected.'' The Act contemplates that objects to be protected must be threatened or endangered in some way.[2]

EXECUTIVE SUMMARY OF FINDINGS

MONUMENTAL DECISIONS BEHIND CLOSED DOORS

''I'm increasingly of the view that we should just drop these Utah ideas . . . these lands are not really endangered.''—CEQ Chair Kathleen McGinty.

The state of Utah was settled by hearty Mormon pioneers seeking to avoid persecution for their beliefs. They moved west in an effort to find wide, open spaces and freedom from intrusion into their affairs by their neighbors and the government. Now, more than a century later, the citizens of Utah have been forced to endure the ultimate government intrusion: a federal land grab of 1.7 million acres, taken in the dead of night—with no public notice, no opportunity to comment, and no involvement of the Utah Congressional Delegation. Indeed, the Utah delegation was deceived about the imminent decision to designate the Grand Staircase-Escalante National Monument up until hours before the President's high-profile, public, campaign-style announcement.

Once again, at the hands of the Clinton Administration, the people of Utah were being persecuted for their beliefs. Had Utah been a pro-Clinton state, a state with prominent Democratic Members of Congress, or one that factored importantly into Clinton's reelection effort, then the land-grab would almost certainly not have occurred.

In sum, the documents received by the Committee show several points quite clearly: (1) the designation of the Monument was almost entirely politically motivated; (2) the plan to designate the monument was purposefully kept secret from Americans and Utah Members of Congress; (3) the Monument designation was put forward even though the Administration officials did not believe that the lands proposed for protection were in danger; (4) use of the Antiquities Act was intended to overcome Congressional involvement in land designation decisions; (5) use of the Antiquities Act for monument designation was planned to evade the National Environmental Policy Act (NEPA). Indeed, its use was specifically intended to evade the provisions of NEPA and other federal administrative requirements, and to assist the Clinton-Gore reelection effort.

IT'S POLITICS, STUPID—NOT THE ENVIRONMENT

The records and documents provided by the CEQ and DOI clearly demonstrate that the Administration's goal was political, not environmental, a fact that contradicts the Congressional intent of the Antiquities Act.

The Clinton White House took pains to ensure that all prominent Democrats from neighboring states were not only warned in advance, but had an opportunity to give their views on the designation. In an August 14, 1996, memorandum for the President, CEQ Chair Kathleen McGinty opines that the monument designation would be politically popular in several key Western states. In Ms. McGinty's words: ''This assessment squares with the positive reactions by Sentor [sic] Harry Reid (D-NV), Governor Roy Romer (D-CO), and Representative Bill Richardson (D-NM) when asked their views on the proposal. . . . Governor Bob Miller's (D-NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.''

In fact, even non-incumbent Democratic candidates for office from states other than Utah were warned about the impending land grab. CEQ Chair Kathleen McGinty explained this in a moment of partisan candor in her September 6, 1996, White House weekly report: ''I have called several members of congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised.''

It was only Republicans, the lone Utah Democratic Member, and Utahans who were to be kept in the dark. Even media outlets like the Washington Post were advised by insiders to the Utah Monument decision as evidenced by electronic mail (e-mail) traffic: ''Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo [Udall] Clinton said: 'You don't know when to take yes for an answer.' Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. . . . —Tom Kenworthy'' (September 10, 1996 From Brian Johnson (CEQ press) to others at CEQ transmitting e-mail from Washington Post reporter Tom Kenworthy).

Another CEQ staffer commenting on the above e-mail: ''Wow. He's got good sources and a lot of nerve.'' (September 10, 1996, response from Tom Jensen to Brian Johnson's e-mail previously forwarded).

The exchange continues: ''south rim of the grand canyon, sept 18th—be there or be square.'' (September 11, 1996, e-mail from Tom Kenworthy to Brian Johnson).

The exchange continues again: ''Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance.'' (September 16, 1996, e-mail from Tom Kenworthy to Brian Johnson).

This e-mail traffic demonstrates that by September 10 and 11, 1996, the Washington Post clearly had been notified not only that the decision had been made, but when and where the announcement would be. By contrast, the Utah Congressional delegation was being told by Ms. McGinty and top CEQ staff on September 9 that no decision had been made and the delegation would be consulted prior to any announcement.

Moreover, CEQ, White House Staff, and DOI officials met with Utah's delegation staff again on September 16, 1996—two days before the Utah Monument designation—and continued to deny that a decision had been made to go forward with the designation. Meeting notes taken by Tom Jensen of CEQ at the September 16, 1996, meeting indicate the following exchange between Senator Hatch and Kathleen McGinty: ''Senator Hatch: 'Can you give us an idea of what the POTUS [President] will do before he does it? Don't want to rely on press.''' ''Kathleen McGinty: 'Yes. We need to caucus and will reengage.'''

This deception, a full week after the Washington Post knew all of the details of the Utah Monument designation and ''Utah event,'' allowed the White House to move forward without Congressional intervention.

In an August 14, 1996, memo to the President, CEQ Chair Kathleen McGinty candidly discusses the goal of the project—to positively impact the President's re-election campaign: ''The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. . . . It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration . . . Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances.

Many of the documents attempt to gauge the political impact of the action, yet the environmental impact of the decision is rarely explored. Regardless of the environmental impact, the Clinton-Gore campaign needed the Utah Monument to shore up its political base in the environmental movement. When environmental impact is explored in some documents, they note that the lands to be set aside under the designation are not environmentally threatened—a sentiment echoed by CEQ Chair Kathleen McGinty herself in a March 25, 1996, e-mail: ''i'm increasingly of the view that we should just drop these utah ideas. we do not really know how the enviros will react and i do think there is a danger of 'abuse' of the withdraw/antiquities authorities especially because these lands are not really endangered.''

In a March 22, 1996, e-mail, CEQ Associate Director for Public Lands Linda Lance agreed, warning against the Utah Monument designation because of the political impact of using the Act to set aside unthreatened lands: ''. . . [T]he real remaining question is not so much what this letter says, but the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?''

However, sentiment changed a few days later. The March 27, 1996, e-mail from Linda Lance at CEQ to Kathleen McGinty who forwarded it to others at CEQ shows that DOI was keeping the Monument idea alive: ''since i and i think others were persuaded at yesterday's meeting w/Interior that we shouldn't write off the canyonlands and arches monument just yet here's another try at a draft letter to Babbitt to get this process started.''

[2] See Report to accompany S. 4698, Rpt. No. 3797, 59th Cong., 1st Sess. (May 24, 1906).

Despite the fact that CEQ Chair advocated dropping the idea, and despite the fact that there is no indication that the President had given either CEQ or Interior any formal notice that he even knew about the idea, DOI was apparently hard (behind the scenes) for this monument. Still there was no letter in March, April, May, June, or July 1996 from the President to the Secretary directing work on designating a possible Utah Monument. At a minimum, this is a violation of the spirit of NEPA, a statute that CEQ is responsible for implementing. Both DOI and CEQ knew it was a violation. Hence, the urgency in seeking the letter from the President to the Secretary directing him to undertake work to designate the Utah Monument.

THE ENDS JUSTIFY THE MEANS: NEPA, A LAW OF CONVENIENCE FOR THE CLINTON-GORE CAMPAIGN

No Presidential written direction to the Secretary of DOI emerged until August 7, 1996, and by then, the first planned announcement was only ten days away. Still, no one from state or local government, or the Utah Congressional delegation had been consulted. These actions, in the absence of written direction from the President, make a mockery of what CEQ Chair Kathleen McGinty testified was the overriding purpose behind NEPA: ''It provides the federal government an opportunity for collaborative decision-making with state and local governments and the public.'' (September 26, 1996, Testimony of Kathleen McGinty before the Senate Energy Committee.)

The National Environmental Policy Act created CEQ, and the Council is charged with reviewing and appraising federal activities and determining whether they comply with the requirements and policies of the Act. (See, National Environmental Policy Act, Section 204.) Those requirements include development of environmental impact statements (EIA) or NEPA documents by federal agencies for major federal actions. Nearly all major federal actions—like designating land—require some level of NEPA documentation and process. NEPA environmental impact statements receive public notice, public comment, and public hearings. There was a conscious effort to use the Antiquities Act to avoid these NEPA requirements altogether in the designation of the Utah Monument.

Under the Antiquities Act, at the direction of the President, a monument may be established unilaterally by the President under limited circumstances. Using the Antiquities Act had several benefits to the Clinton-Gore Administration: (1) it is not necessary to work with Congress; (2) it is not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it is not necessary to comply with NEPA requirements to involve the public or establish an administrative record on environmental impacts.

In short, the Antiquities Act was used to override the chance that the views of the people of Utah—and most importantly, elected Members of the Utah delegation—would influence the Utah Monument decision. In fact, the documents demonstrate that evading NEPA was a major internal rationale for using the Antiquities Act. This is a striking example of how the Clinton-Gore Administration manipulated the law to the advantage of the Clinton-Gore campaign for purposes of a ''Utah event''—an event that might make the insatiable desires of the environmentalist constituency happy for a moment. Alarmingly, the chief architects of the endeavor to evade NEPA were in the leadership of CEQ—the entity charged with overseeing NEPA. A draft memo dated July 25, 1996, from CEQ Chair Kathleen McGinty to the President revealed that use of the Act was a means to avoid NEPA: ''Ordinarily, if the (Interior) Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review.''

Although this revealing paragraph was edited out of the final memo, it is alarmingly hypocritical that CEQ, the agency created by NEPA and charged with seeing that it is complied with, was clearly advising the President how to evade NEPA. The same July 25, 1996, draft, written by CEQ staffer Thomas Jensen, makes it clear, however, that this was the secret goal. Contrast this with the lofty public pronouncements from high-ranking CEQ officials about the importance that other government entities comply with NEPA: ''The lack of attention to NEPA's policies speaks to the tendency of our society to devalue those provisions of law that are not enforceable through the judicial system. One answer to the common complaint that we live in an overly litigious society is for individuals and agencies to take seriously such provisions as the national environmental policy set forth in section 101 of NEPA. Absent such a trend, interested individuals will naturally be skeptical of approaches that are not amendable to a legal remedy.'' Dinah Bear, General Counsel, CEQ, ''The National Environmental Policy Act: its Origins and Evolutions,'' Natural Resources and Environment, Vol. 10, No. 2 (Fall, 1995).

Contrast this with the testimony of CEQ Chair Kathleen McGinty to the Senate Energy and Natural Resources Committee within days of the designation (September 26, 1996): ''In many ways, NEPA anticipated today's call for enhanced local involvement and responsibility, sustainable development and government accountability. By bringing the public into the agency decision-making process, NEPA is like no other statute and is an extraordinary tribute to the ability of the American people to build upon shared values * * *''

''[NEPA] gives greater voice to communities. It provides the federal government an opportunity for collaborative decision-making with state and local government and the public * * * It should and in many cases does improve federal decision-making * * *

''As directed by NEPA, CEQ is responsible for overseeing implementation of the environmental impact assessment process * * *''

Either NEPA is an important statute worthy of implementation, as CEQ Chair McGinty states, or it is not. Either public, state, and local involvement is important, as CEQ Chair McGinty states, or it is not. Apparently, in the case of the Utah Monument designation, it was not important enough to implement NEPA because the end apparently justified the means.

What was important was selective application of NEPA for the convenience of the Clinton-Gore re-election effort. One of two conclusions exist as to why NEPA was not applied to the Utah Monument designation as it would ''ordinarily'' be applied (the words used by Ms. McGinty). The first possible conclusion is that the Utah Monument designation would not pass muster under NEPA. The second possible conclusion is that NEPA would not allow a decision before the 1996 Presidential election, and the designation was needed for the campaign. Otherwise, why not allow NEPA to ''bless'' Utah Monument?

Further, it is obvious from the documents that the Administration, in its zeal to use the Antiquities Act in an attempt to shield the Utah land grab from APA and NEPA, did not fully comply with the statutory requirements to justify using the Antiquities Act—namely that the President initiate the designation process. Ms. McGinty clarifies this point in a July 29, 1996, e-mail to Todd Stern of CEQ: ''the president will do the utah event on aug 17. however, we still need to get the letter (from the President to Interior Secretary Bruce Babbitt) signed asap. the reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secretary to look into these lands to see if they are of important scientific, cultural, or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however. so, letter needs to be signed asap so that secy has what looks like a credible amount of time to do his investigation of the matter. we have opened the letter with a sentence that gives us some more room by making it clear that the president and babbitt had discussed this some time ago.''

This e-mail clarifies the following points: (1) by July 29, 1996, not only had the decision to make the designation been made by the White House, the staff had already agreed to an announcement event (the date was eventually postponed) and (2) although this decision had already been made, a fake paper trail had to be carefully crafted to make it appear as if President had asked the Secretary to look into the matter and initiate the staff work. By that time, however, the staff work was already apparently underway. This is an alarming breach of responsibility at the top levels of DOI and CEQ.

In fact, CEQ's Tom Jensen, in a frantic July 23, 1996, e-mail, asks fellow CEQ staffer Peter Umhofer to help create the fake paper trail: ''Peter, I need your help. The following text needs to be transformed into a signed POTUS (President of the United States) letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's [McGinty's] Todd Sterns?) but it must be prepared and signed ASAP. You should discuss the processing of the letter with Katie, given its sensitivity.''

The e-mail spells out the CEQ plan to create the letter to the Secretary and store it in its own White House files—never even really sending it to the Secretary—creating the false appearance that the President's letter had predated and prompted the staff work on Escalante. All the while, work on the monument designation was already underway within DOI to draw the necessary Antiquities Act papers to make the secretly planned designation. Without such a letter, the White House would have had to comply with NEPA just like the rest of America.

CAMPAIGN STYLE ''EVENT'' FOR A CAMPAIGN-MOTIVATED DECISION THAT VIOLATES THE INTENT OF THE ANTIQUITIES ACT

The documents show that the White House abused it discretion in nearly every stage of the process of designating the Grand Staircase-Escalante National Monument. It was a staff-driven effort, first to short-circuit a Congressional wilderness proposal, and then to help the Clinton-Core re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened—and hence did not qualify for protection as a National Monument.

The decision was withheld from any public scrutiny or Congressional oversight—and Members of the Utah Congressional delegation were deceived as to its impending status until well after the decision had been made, and the campaign-style announcement event was only days away. The administrative and environmental hurdles that would normally accompany such an action were evaded by contorting a turn-of-the-century statute designed to protect Indian artifacts onto a 1.7-million-acre land grab. And finally, to justify use of this Act, and evasion of the requirements of NEPA—the CEQ's own enabling statute—the administrative record was toyed with to create the false impression that the President had requested the staff work before it had been conducted.

Indeed, a careful review of the Act and historic Presidential use of the Antiquities Act clarifies that the President's use of the Act was an abuse of discretion. The Antiquities Act of 1906 is an obscure Act that pre-dated the regulatory reforms that require public notice, analysis of environmental and economic impacts, and an opportunity for interested parties to be heard. Until Clinton used it in the 1996 Utah land grab, the Act had languished unused for nearly two decades.

The Act is designed to help protect architecturally and anthropologically unique artifacts from acquisition or destruction. It has primarily been used to protect antique artifacts, historic buildings, and relatively small parcels of rare geologic formations. It was emphatically not designed to be used to set aside massive chunks of western states. When the Act was created by Congress, the West was still being settled. Congress wanted to prevent valuable historic and geologic artifacts from being destroyed or carried off. The Act was necessary, according to the 1906 bill report, ''in view of the fact that the historic and prehistoric ruins and monuments on the public lands of the United States are rapidly being destroyed by parties who are gathering them as relics and for the use of museums and colleges, etc.'' Nowhere was a 1.7-million-acre land grab mentioned or contemplated. Nowhere in the subpoenaed documents obtained were there serious allegations of the 1.7 million acres being ''threatened'' in any way.

Indeed, the House debate over the bill records that, even nearly a century ago, western Members were concerned that the powers of this Act not be used to grab up huge quantities of land. One such Member, Mr. Stephens of Texas, only agreed not to object to consideration of the bill after being assured by the bill's proponent, Mr. Lacey, that such an outcome was not possible under the act, whose major focus was Indian artifacts:

Mr. LACEY. There has been an effort made to have national parks in some of these regions, but this will merely make small reservations where the objects are of sufficient interest to preserve them.

Mr. STEPHENS of Texas. Will that take this land off of market, or can they still be settled on as part of the public domain?

Mr. LACEY. It will take that portion of the reservation out of the market. It is meant to cover the cave dwellers and cliff dwellers.

Mr. STEPHENS of Texas. How much land will be taken off the market in the Western States by the passage of this bill?

Mr. LACEY. Not very much. The bill provides that it shall be the smallest area necesstry [sic] for the care and maintenance of the objects to be preserved.

Mr. STEPHENS of Texas. Would it be anything like the forest-reserve bill, by which seventy or eighty million acres of land in the United States have been tied up?

Mr. LACEY. Certainly not. The object is entirely different. It is to preserve these old objects of special interest in the Southwest, whilst the other reserves the forests and the water courses.

Mr. STEPHENS of Texas. I will say that that bill was abused. I know of one place where in 5 miles square you could not get a cord of wood, and they call it a forest, and by such means they have locked up a very large area in this country.

Mr. LACEY. The next bill I desire to call up is a bill . . . which permits the opening up of specified tracts of agricultural lands where they can be used, by which the very evil that my friend is protesting against can be remedied. . . .

Mr. STEPHENS of Texas. I hope the gentleman will succeed in passing that bill, and this bill will not result in locking up other lands. I have no objection to its consideration.—(40 Cong. Rec. H7888, June 5, 1906.)

So why take an old, obscure law designed to protect cliff dwellings or historic relics and manipulate it into a 1.7-million-acre land grab? The answer is clear from the attached documents: the ends (the political gain amongst environmental groups) justified the means (violating the purpose and intent of the Antiquities Act and NEPA to lock up the land).

The Clinton-Gore Administration's abuse of the Antiquities Act meant (1) it was not necessary to work with Congress and elected leaders from Utah; (2) it was not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it was not necessary to comply NEPA's requirements of establishing an administrative record on environmental impacts.

The early e-mail traffic indicated a concern with establishing a paper trail from the President to the Secretary. As early as March 21, 1996, e-mail traffic between Linda Lance (Office of the Vice President) and Kathleen McGinty and others comment on several drafts of a letter that was to come from the President to Secretary Babbitt requesting information on lands in Utah eligible for monument designation. Solicitor Leshy was informed of the importance of past practice on this important legal point. ''As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions: . .

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e.' what is the appropriate relief?

Please give me your . . reactions by return e-mail, and keep this close.''—(April 24, 1996, e-mail from Sam Kalen to John Leshy and others.)

Even earlier, on March 20, 1996, Kathleen McGinty evinced concern that the paper trail needed to be created as quickly as possible to justify Interior's actions under the Antiquities Act: ''attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency. . . . ideally it should go tomorrow.''—(March 20, 1996, e-mail from Kathleen McGinty to Tom Jensen)

The lack of a Presidential letter making the request is critical. The NEPA requirements for notice, comment, and public process safeguards would ordinarily apply to a major federal action designating lands that were initiated outside of the Antiquities Act process. CEQ staff apparently knew this approximately six months before the actual decision that a record needed to be established with a request from the President to Secretary Babbitt. Time was of the essence, at least in the early part of 1996, before legislative activity on the Utah wilderness bill ended.

The record is clear that from start to finish, this was an abuse of Presidential discretion, designed to gain political advantage at the expense of the people of Utah—all the while keeping the decision behind closed doors for as long as possible.

HIGHLIGHTS OF SELECT UTAH MONUMENT RECORDS: A GLIMPSE OF THE ABUSE OF TRUST AND DISCRETION

As early as August 3, 1995, the Department of the Interior discussed the use of the Antiquities Act to withdraw land for the Utah Monument. In a memo to ''Raynor'' and ''Baum,'' from ''Dave' (all within the DOI Solicitor's Office) discussed the legal risks involved with DOI studying lands for national monument status. He noted that: ''To the extent the Secretary [of the Interior] proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella.''

This realization—that the administrative record must make it look like the idea came from the President, and not from an agency, in order to avoid NEPA compliance—is a dominant theme manifested throughout the documents. The idea was to create the false impression that this was an idea that came from the President, instead of from the Department of the Interior.

In a March 19, 1996, e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff, Ms. Lance states: ''attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency.''

This letter was never signed until August 7, 1996, and indeed may never been have been sent.[3] This is significant because it demonstrates an effort—beginning with DOI in 1995—to construct an Antiquities Act rationale to circumvent NEPA. All the while, meetings and work on the monument designation are proceeding within and between DOI, CEQ, and Department of Justice.

A draft letter from Kathleen McGinty on behalf of the President to Babbitt also makes it very clear that one early motivation behind the monument idea was to circumvent Congress's authority over wilderness designations, and specifically to control the Utah wilderness debate. The draft says: ''As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. . . . Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made

[3]Whether DOI ever actually received the Clinton letter is at issue because: (1) DOI was asked to provide all Utah Monument documents to the Committee, but never supplied the August 7, 1996, copy signed by President Clinton—that version was supplied to the Committee by the White House after the Chairman was authorized on September 25, 1997 to subpoena Utah Monument documents; and (2) this strategy—to create the letter as a paper trail but never send it—was discussed in White House e-mail traffic.

unsuitable for future wilderness designation if opened for development by Congress. . . . The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.'' (March 19, 1996 e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff.)

This blatant disregard for Congressional authority over public lands is further evidence that staff was attempting to construct a path around NEPA and Congress.

On March 21, 1996, Linda Lance wrote another e-mail message to Kathleen McGinty responding to comments Ms. McGinty had made about the draft letter. She commented: ''I completely agree that this can't be pitched as our answer to their Utah bill. But I'm having trouble deciding where we go from here. If we de-link from Utah but limit our request for info to Utah, why? If we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the Utah parks? Am I missing something or lacking in creativity? Is there another Utah hook? Whatdya think?''

This communication makes two things clear. First, in addition to helping the Clinton-Gore campaign, the purpose of the monument was to circumvent Congressional control over Utah lands. This was a direct response to proposed Utah wilderness legislation. Second, CEQ staff concluded that they had to come up with a facade, ''another Utah hook'', so their real motivations weren't exposed.

This e-mail message evinces CEQ knowledge that other lands were much better suited to monument designation. In fact, the next day—March 22, 1996—Linda Lance sent another e-mail to TJ Glauthier at OMB and Kathleen McGinty at CEQ that expounded on this problem. She stated that the real problem with drafting a request letter that singled out Utah lands was: ''the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation.''

She concluded the e-mail message by prophetically questioning whether: ''the bad guys [will] . . . have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?''

It is interesting to note that the Administration staff foresaw the kind of uproar the Utah Monument would cause. Ms. Lance recognized first, that people would see this as a blatant abuse of Presidential authority, and second that there may be cause to narrow the President's discretion under the Act. This process is currently underway with the successful passage in the House of the National Monument Fairness Act of 1997. Other amendments to the Antiquities Act and NEPA are currently under consideration by Members of the House Committee on Resources.

On March 25, 1996, Kathleen McGinty stated that she agreed with these doubts about the Utah Monument. In fact she was so convinced that the lands in question weren't in any real danger that she was ready to drop the whole project. She noted in an e-mail message to TJ Glauthier at OMB and Linda Lance at CEQ that: ''i'm increasingly of the view that we should just drop these utah ideas. we do not really know how the enviros will react and I do think there is a danger of ''abuse'' of the withdraw/antiquities authorities especially because these lands are not really endangered.''

A March 27, 1996, e-mail from Linda Lace at CEQ to Robert Vandermark at CEQ shows that DOI was trying to push the monument designation despite the lack of endangered lands. Lance stated: ''since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to Babbit to get this process started.''

It is clear the DOI was still advocating the monument despite the fact that CEQ was ready to drop the project. Even the DOI Solicitor's Office concluded that case law requires full compliance with NEPA's requirements when national monument proposals come out of DOI.

At this point the monument idea had been tailored to respond to the Utah wilderness bills in Congress. The areas in question were centered around Arches National Park and Canyonlands National Park—areas that were in no danger of losing protection. At this point no mention had been made about the Kaiparowits Plateau or saving the West from Andalex Coal mining.

The Kaiparowits Plateau was first mentioned by Tom Jensen at CEQ in an e-mail to Linda Lance, T. Glauthier (OMB) and Kathleen McGinty on March 27, 1996. He states that in the latest version of the proposed Clinton letter to Babbitt, he had added a reference to Glen Canyon National Recreation Area ''because KM [probably Kathleen McGinty] and others may want to rope in the Kaiparowits and Escalante Canyons regions if this package ultimately doesn't seem adequate to the President's overall purpose.''

By ''rop[ing] in the Kaiparowits,'' the Administration would effectively quash the Andalex Coal Mine—in spite of the fact that the NEPA process (already under way) was incomplete for the mine. Until that process was completed, it would be impossible to know whether the mine would have any negative impact on the environment. Unconcerned with the ultimate conclusion of these environmental impact studied, the Administration wanted Kaiparowits included so they could claim that there were some ''endangered'' lands to be ''protected'' by the monument.

It is worth noting that the Chairman and Subcommittee Chairman has requested the draft Andalex Coal mine EIS five times since March 1997 for purposes of committee oversight and legislative needs, but the Secretary has failed to provide the record as requested.

By April 1996, DOI was starting to get frantic about the idea that they were in violation of NEPA by continuing to go forward on the national monument idea without prior Presidential direction. In an April 25, 1996 e-mail, Sam Kalen of the DOI Solicitor's office noted this concern to Solicitor John Leshy and colleagues Dave Watts and Robert Baum: ''As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations.''

As late as July 23, 1996, CEQ was still trying to get Bill Clinton to sign a letter to send to Babbitt. In an e-mail from Tom Jensen (CEQ) to Peter Umhofer at the White House, Mr. Jensen begged: ''I need your help. The following needs to be transformed into a signed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office . . . but it must be prepared and signed ASAP.''

On July 25, 1996, Kathleen McGinty sent a memo to the President with an attached, suggested letter to Babbitt. This is also the first time, as far as we can tell from the documents, that CEQ mentions the Andalex coal mine as an excuse for the national monument.

By this time it is obvious that Interior had been working on the Utah Monument for quite some time. In fact,, three days later, on July 26, 1996, John Leshy sent a letter to University of Colorado law professor Charles Wilkinson asking him to draw up the actual proclamation. Included with the letter was a package of materials that Interior had put together on their monument proposal. Note that at this same time CEQ was still frantically trying to get the President to agree to send Babbitt a request to start looking at the lands in question. However, the DOI work was already underway. In this case, things were being done in exactly the reverse order.

On July 29, 1996, Kathleen McGinty sent an e-mail to Todd Stern at the White House pleading for the President to sign something. She noted that the ''letter needs to be signed asap so that [the] secy has what looks like a credible amount of time to do his investigation of the matter.''

The President finally signed the letter authorizing DOI to begin its work on August 7, 1996, but it seems that the final decision to create a Grand Staircase-Escalante National Monument had already been made—by someone—on or before July 29, 1996, as evidenced by the July 29 e-mail from Kathleen McGinty to Todd Stern: ''The President will do the Utah event on Aug 17.''

The documents show, however, that for some reason, the White House decided not to go ahead with the August 17 announcement date. On August 5, 1996, Kathleen McGinty sent a memo to Marcia Hale at the White House telling her that Leon Panetta wanted them to call several western Democrats to get their reactions to a possible monument proclamation. She noted that ''[t]he reactions to these calls, and other factors, will help determine whether the proposed action occur.'' She also emphasized that the whole thing should be kept secret, noting that ''any public release of the information would probably foreclose the President's option to proceed.'' It seems that at this point, the focus had shifted from pre-empting Congressional authority over Utah wilderness to creating a Presidential campaign event. The announcement had to be postponed until Democratic politicians could be consulted.

On August 14, 1996, Kathleen McGinty sent the President a memo outlining the possible places to have the photo-op announcement event. The three options discussed were (1) an oval office setting; (2) on the Utah lands themselves; or (3 ) at Jackson Hole, Wyoming. Ms. McGinty noted that Secretary Babbitt thought that the Utah option would be the most ''confrontational'' or ''in-your-face'' event. Ms. McGinty commented that she thought that all three options sounded good to her. Since the event was designed to be an election year photo-op, the Arizona setting became the choice.

In this memo Ms. McGinty reveals the real purpose of the monument: ''The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.''

She also underscored the potential political benefits in key western states, as confirmed by the non-Utah Democratic politicians who had been consulted: ''In addition, the new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their view on the proposal.''

Finally, she added that the Administration really didn't have anything to lose, as far as votes are concerned: ''Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances.''

The situation was painted as a no-lose political situation. Translation: The monument designation will help solidify Clinton's electoral base—whole those who will object to the monument, as in Utah, will oppose Clinton's re-election anyway. They did not matter.

The event was postponed further. On August 23, 1996, Kathleen McGinty wrote another memo to the President begging him to act on the monument soon. She stated, ''in any event, we need to decide this soon, or I fear, press leaks will decide it for us.''

The leak finally occurred. In a September 6, 1996, memo from Kathleen McGinty to the President, she informed him that ''the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation.'' She also told him that ''we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.''

After the September 7, 1996, Washington Post article, Senator Bennett wrote to Secretary Babbitt requesting the Administration not to take such a drastic step without time for significant public input. Secretary Babbitt responded on September 13—just five days before the event announcing the Utah Monument—telling him that nothing was imminent and that no decisions had yet been made.

It is important to note that two days earlier, on September 11, 1996, Tom Kenworthy, a Washington Post reporter, had confirmed the whole story—including the date, time, and exact location of the announcement event at the Grand Canyon. In a September 11 e-mail to Brian Johnson, CEQ's press spokesman, Kenworthy confirmed he had all the information he needed: ''south rim of the grand canyon, sept 18—be there or be square.'' While the Utah Monument designation was being concealed from the entire Utah Congressional delegation, it had already been revealed to the Washington press. This strategy worked to the Administration's advantage by encouraging press interest in the event, while effectively eliminating the possibility of Congress stepping in to stop the proposed action.

On September 18, 1996, President Clinton, standing on the South Rim of the Grand Canyon, with nature's splendor as his backdrop, finally got his photo-op. He told the nation that he was following in Teddy Roosevelt's footsteps, and that he was saving the environment from Dutch coal companies. It worked just like the Administration predicted. Bill Clinton locked up the environmental votes in the West and carried key western states like California, Arizona, and Nevada. Of course they lost Utah, but as Kathleen McGinty had predicted, Utahns are voters ''who, in candor, are unlikely to support the Administration under any circumstances.''

In the final analysis, the Utah Monument designation was all about politics. To achieve their political ends, the Clinton-Gore Administration contorted a century-old statute and evaded the environmental requirements they foist on others. The Administration took pains to see that no one knew about this decision until the last minute, even to the point of deceiving the entire Utah Congressional delegation—all so they could get a political photo-op out of the monument proclamation, and preclude any Congressional action that might stop the event. It comes as no surprise the announcement event was finally held not in Utah, but across the Grand Canyon in more hospitable Arizona. This was an abuse of discretion under the Antiquities Act and a violation of NEPA by the Clinton-Gore Administration.

*August 3, 1995.*

To: Raynor Baum.
Re: Antiquities Act.

Attached are some sample Pres proclamations. Some just designate the monument, other designate and withdraw the monument. It would follow that anwr could be designated—a prestige issue—without a further withdrawal of land.

We should meet. I think we have enough materials for a meeting with John. He was not looking for a paper, but rather a brief talk about the choices and legal risks.

*Dave.*

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PRESIDENTIAL PROCLAMATIONS

1. The Antiquities Act of 1906 provides: ''The President . . . is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government . . . to be national monuments, and may reserve as part thereof parcels of lands, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. 16 U.S.C. §431.''

2. History: ''Many areas of the National Park System were originally established as national monuments under this act and placed under the care of the Department of the Interior to be administered by the National Park Service under the Service's Organic Act of 1916. 16 U.S.C. §1. The most recent proclamations were signed by President Carter and established various Alaska monuments, the predecessors to the national parks and preserves eventually established by the Alaska National Interest Lands Conservation Act.''

3. Analysis: When the president undertakes the preparation of a proclamation, the restrictions of the law must be carefully observed and documented. The lands must be federally owned or controlled. Private and state lands are excluded.

The area must be the smallest area compatible with management of the objects. Although broad discretion is vested in the president, the administrative record must reflect the rationale basis for the acreage.

Most areas of the National Park System were established because of objects of historic or scientific interest. Again, an administrative record must be established regarding the objects to be protected and their significance properly demonstrated.

4. Other Laws: The Federal Land Policy and Management Act, 43 U.S.C. §1701, does not preclude or restrain presidential proclamations, even though it has restrictions on other forms of public land withdrawals of areas over 5,000 acres. See 43 U.S.C. §1714(c)(1).

To the extent the Secretary proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella.

5. Litigation: ''I have attached the most recent case involving the Alaska monuments. The case is instructive and should be read, understood and followed. Careful observance of the administrative and institutional structures as well as a focused administrative record will enhance success in the court house.''

Record Type: Federal (all-in-1 mail).
Creator: Kathleen A. McGinty (McGinty, K.) (CEQ).
Creation Date/Time: 20-MAR-1996 08:01:40.12.
Subject: Utah letter to Babbitt.
To: Thomas C. Jensen.

Text: ''I don't have this document. But, I want to see it personally and clear off on it.'' thx.

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ATTACHMENT 1

Att Creation Time/Date: 19-MAR-1996 19:02:00.00.
Att Bodypart Type: E.
Att Creator: CN=Linda L. Lance/O=OVP.
Att Subject: Letter to Babbit re monuments.
Att To: McGinty, K; Glauthier, T; Jensen, T; Bear, D; Fidler, S; Crutchfiel, J; Shuffield, A.

Text: ''Message Creation Date was at 19-MAR-1996 19:02:00''

Attached is a letter to Babbit as we discussed yesterday that makes clear that the Utah monument action is one generated by the Executive Office of the President, not the agency. Craig drafted and I edited.

It seems to me it could go from Katie and/or TJ rather than having to go through the clearance process for the pres. signature since time is a concern, but Dinah should sign off on that, and it could be done either way.

Also, do we know whether the canyonlands and arches areas we're considering would be affected by the Utah wilderness bill—see my question in bold on the attachment.

Katie and TJ, you should agree on how to sign this, and then one of your offices can just finalize and sent it out. Ideally it should go tomorrow. If you want to discuss, just yell.

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ATTACHMENT 2

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.
Att Bodypart Type: D.

Text: ''The following attachments were included with this message''.

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ATTACHMENT 3

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.
Att Bodypart Type: P.
Att Subject: Parksltr.

Text: ''Dear Secretary Babbitt,

The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection

of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [Do the canyonlands and arches areas fit this description? Are they threatened by the Utah wilderness bill? Is there a better way to describe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

*Katie and/or TJ.*

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Record Type: Federal (ALL 1–1 MAIL).
Creator: Thomas C. Jensen (JENSEN, T) (CEQ).
Creation Date/Time: 20–MAR–1996 08:26:53.99
Subject: Linda's park letter to babbitt.
To: Thomas C. Jensen.
Read: 20–MAR–1996 08:27:08.41.
To: Kathleen A. McGinty.

Text: Dear Secretary Babbitt,

The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [do the canyonlands and arches areas fit this description? are they threatened by the utah wilderness bill? is there a better way to describe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

*Katie and/or TJ.*

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Record Type: Federal (EXTE. .L MAIL).
Creator: CN=Linda L. Lance.
Creation Date/Time: 21–MAR–1996 18:36:00.00.
Subject: Re: KM's comments on yesterday's monument letter.
To: McGinty, K; :jensen, t, :bear, d; :crutchfiel, j; :glauthier, t.

TEXT: Message Creation Date was at 21–MAR–1996 18:40:00.

I completely agree that this can't be pitched as our answer to their utah bill. but i'm having trouble deciding where we go from here. if we delink from utah but limit our request for info to utah, why? if we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the utah parks? am i missing something or lacking in creativity? is there another utah hook? whatdya think?

I'm getting concerned that if we're going to do this we need to get this letter going tomorrow. almost everything else is pretty much ready to go to the president for decision, although some drafting of the formal documents like pres. memos still needs to be done.

Thanks for you help.

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Record Type: Federal (External Mail).
Creator: CN=Linda L. Lance.
Creation Date/Time: 22–Mar–1996 18:56:00.00.
Subject: redraft of president's babbitt letter and question.
To: Glauthier, T; McGinty, K; Jensen, T; Bear, D; Crutchfiel, J; Beard, B.

Text: Message Creation Date was at 22–Mar–1996 19:00:00.

Attached is a minimalist approach to the letter to Babbitt. Contrary to what justice may have suggested, I think it's important that he limit the inquiry to lands covered by the antiquities act, since that's the area in which he can act unilaterally. To make a broader request risks scaring people, and/or promising followup we can't deliver.

I realized the real remaining question is not so much what this letter says, but the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. Presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. Do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?

I'd like to get your view, and political affairs, on this. Maybe I'm overreacting, but I think we need to consider that issue.

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ATTACHMENT 1

Att Creation Time/Date: 22–Mar–1996 18:59:00.00.
Att Bodypart Type: D.
Text: The following attachments were included with this message.

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ATTACHMENT 2

Att Creation Time/Date: 22–Mar–1996 18:59:00.00.
Att Bodypart Type: p.
Att Subject: Parkpres.

Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands in Utah that contain significant historic or scientific areas that may be appropriate for National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on Utah lands owned or controlled by the United States that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

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Record Type: Federal (External Mail)
Creator: McGinty
Creation Date/Time: 25–MAR–1996 13:21:00.00.
Subject: Re: redraft of president's Babbitt letter and question
To: T. J. Glauthier; Linda L. Lance; Jensen T.; Beard, D.; Crutchfield, J.; Beard, B.

Text: I'm increasingly of the view that we should just drop these Utah ideas. We do not really know how the enviros will react and I do think there is a danger of ''abuse'' of the withdraw/antiquities authorities especially because these lands are not really endangered.

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Record Type: Federal (All-in-1 Mail).
Creator: Thomas C. Jensen (JensenXT) (CEQ)
Creation Date/Time: 25–MAR–1996 13:29:44.93.
Subject: Potus letter re-do
To: Linda L. Lance; T. J. Glauthier; James Craig Crutchfield; Bruce D. Beard; Dinah Bear; Kathleen A. McGinty.

Text: Attached is my re-do of the draft potus letter to Babbitt. I've added the reference to Glen Canyon NRA for two reasons: first, because some the lands we're reviewing next to Canyonlands are more proximate to GCNRA. Second, because KM and others may want to rope in the Kaiparowits and Escalante Canyons regions (which are adjacent to GCNRA) if this package ultimately doesn't seem adequate to the President's overall purpose. Call if you've got any questions.

You're doing a great job.

TOM.

---

ATTACHMENT 1

Att Creation Time/Date: 25–MAR–1996 13:25:00.00.
Att Bodypart Type: p.
Att Creator: Thomas C. Jensen.
Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

---

Record Type: Federal (All-in-1 mail).
Creator: Kathleen A. McGinty (McGinty K) (CEQ).
Creation date/time: 27 Mar 1996 15:49:36.19.
Subject: pls discuss this with tom.
To: Robert C. Vandermark

Text: Rob, I want to see this letter and comment. pls coordinate with tom so we send one set of comments back to Linda.

ATTACHMENT 1

ATT bodypart Type: E
ATT: Creator: CN+Linda L. Lance/O+OVP
ATT Subject: another babbitt letter draft
To: McGinty, K; Jensen, T+Bear, D; Crutchfield, J; Beard B; Glauther T

Text: Message Creation Date was at 27 Mar 1996 12:40:00.

since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to babbitt to get this process started. if this looks ok, i'd like to run it by justice before it goes out.

tj was going to try to get offices together to discuss the monuments issue, and we need to do that. but since we're now looking at 4/9 as a possible announcement date, i'd propose getting this letter agreed on and getting a decision memo to the president just on sending the letter to interior. even if we don't ultimately do the monument, it won't hurt to have this letter go out and have interior formally return info to us. we'll never have this ready by 4/9 if a letter doesn't go soon. according to justice, the info justice has seen so far isn't an adequate admin record, so interior will have some work to do.

i'll try to draft a short decision memo to the president on sending this letter (for tj and katie's signature??) so that you all can look at it today. let me know if you have problems w/ this approach, or comments on the letter.

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ATTACHMENT 2

ATT Creation time/date: 27 Mar 1996 12:41:00.00
ATT Bodypart Type D

Text: The following attachments were included with this message:

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ATTACHMENT 3

ATT Creation time/date 27 Mar 1996 12:41:00.00
ATT Bodypart Type: p
ATT Subject: Parkpres

Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Canyonlands and Arches National Parks in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Cayonlands or Arches National Parks that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

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Record Type: Federal (External mail).
Creator: CN=Linda L. Lance.
Creation date/time: 29-MAR-1996 19:00:00.00.
Subject: Monday meeting w/Interior and question.
To: Jensen T; McGinty K; Galauthier T

Text: Message Creation Date was at 29-MAR-1996 19:01:00.

Tom and I agreed that the fastest way to come to closure on remaining monument/Utah issues is for he and I to go to Interior on Monday to meet with Anne Shield, NPS folks, and solicitors office. Anne has agreed to schedule something for 2 p.m. Monday in the secretary's conference room. Tom I really hope that works for you, or that you can rearrange to attend. If not, let me know what will work for you on Monday p.m.

If Katie or TJ want to attend and it helps to move it here, we can do that, but I think we need to get with them soon. We'll push them on new wilderness inventory and Kaparowitz/Escalante.

The question I have for you guys is why does Anne react so negatively to the idea of having George Frampton there? I told her I'd left a message for him in Colorado, and thought he should be at the meeting, and she gave me a lecture about how he wouldn't have the necessary info, hadn't been involved, she had no idea when he'd be back in D.C., we need to have Destry there, etc.

Is there a reason for me to insist on scheduling this when Frampton can be there? Does he have a perspective on this that they don't? Is there some friction between him and the NPS folks that have been involved? Let me know. Thanks.

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COUNCIL ON ENVIRONMENTAL QUALITY,
*WASHINGTON DC, MARCH 29, 1996.*

MEMORANDUM FOR THE PRESIDENT
FROM: KATHLEEN A. MCGINTY
RE: ATTACHED LETTER TO SECRETARY BABBITT FOR YOUR SIGNATURE

I. ACTION-FORCING EVENT

As you know, we are putting together a package of national park protection actions for your consideration that, if you approve, may be announced at an event on April 9. As part of that initiative, and in response to the threat to Utah wilderness lands that was posed by the recently-defeated Republican parks bill, we have been reviewing Utah public lands to ensure that we are doing everything possible to provide appropriate protection to those lands. We have focused particularly on public lands that contain historic or scientific resources or are threatened by development.

It has come to my attention that there may be federally-owned lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that may warrant protection as national monuments. Statutory authority to issue a proclamation declaring public lands to be national monuments is available only to the President, who cannot delegate such authority.

Case law interpreting this authority has further held that the President can request information from his advisors on the suitability of certain lands for such designation, but that the action must be initiated by the President, not an advisor. For that reason, it is necessary that you formally request Secretary Babbitt to provide you with such information before we can obtain the necessary background to consider such designation on the merits. We need to do that as soon as possible so that this designation can be completed in time for a possible April 9 announcement. The attached letter makes that request.

II. BACKGROUND ANALYSIS

The Antiquities Act of 1906 provides the President with discretionary authority to declare by public proclamation objects of historic or scientific interest that are on lands owned or controlled by the Government to be national monuments. Only an Act of Congress can disestablish a monument.

Reservation as a national monument generally offers protection to the area comparable to that of a National Park, including closure to future mineral leasing claims. The agency managing the monument can grandfather existing uses of the land, such as grazing permits.

No final decision about the designation of Utah lands as national monuments can be made without additional material from the Department of Interior. However, currently available information indicates that significant Bureau of Land Management acreage adjacent to each of the areas addressed in the letter contains historic and scientific objects of importance, including numerous archaeological sites, Indian rock art, geological formations and wildlife habitat.

III. RECOMMENDATION

I recommend that you sign the attached letter requesting information on Utah lands from Secretary Babbitt

IV. DECISION

—Approve —Approve as amended —Reject —No action.

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THE WHITE HOUSE,
*Washington, March 29, 1996.*

Hon. BRUCE BABBITT,
*Secretary of the Interior, Washington, D.C.*

DEAR BRUCE: It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

BILL CLINTON.

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Record type: Federal (All-in-1 IL).
Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).
Creation date/time: 3–APR–1996 18:04:45.13.
Subject: parks meeting tomorrow
To: Linda L. Lance
To: Thomas C. Jensen
To: Lisa Guide

Text: For the meeting tomorrow at 3, I believe we need a short summary (1–2 pp) of all of the parts of the package. Thx. I see this as a major decision-making meeting. On the Utah pieces; on the overall package; on potus involvement. By the way Leshy said to me today that he thought there was no way they could get info on Kaipairowitz (sp?) and that Escalante was a maybe.

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Record Type: Federal (All in-1 Mail).
Creator: James Craig Crutchfield (Crutchfield J) (OMB).
Creation date/time: 3-Apr-1996 10:09:39.50.
Subject: Parks Initiative update.
To: T.J. Glauthier; Ron Cogswell; Bruce D. Beard; Marvis G. Olfus; Linda L. Lance; Thomas C. Jensen.

Text: According to Linda Lance, the Parks Initiative is not currently on the President's schedule and no event is likely before the President's mid-April international trip. May/June is a more realistic timeframe. Interior may not be happy about this, but they

created a false urgency by citing a pending Gingrich parks proposal. (It now appears that the only imminent Republican proposal is the Senate Omnibus lands bill, which is on hold because of Utah wilderness.)

Other key points:

Sufficiently Presidential? Linda and Tom Jensen met on Monday with Interior to address skepticism from the West Wing about whether the Initiative is worthy of a Presidential event. (Ann Shields grumbled that it would be Presidential if it retained the tax proposals.) They discussed three new candidates for National Monument designation in Utah (Kiparowitz, Grand Gulch, and Escalante), each with pros and cons, and Interior agreed to review these options further. Interior/NPS complained that their park proposal was morphing into a Utah proposal, but Tom and Linda dismiss this complaint.

POTUS letter to Babbitt was sent up for signature on Friday (3/31), but no word from W.H. Clerk on whether it was signed. By requesting Babbitt to provide information on lands in Utah for possible designation as National Monuments, this letter would establish the needed Administrative record to defend use of the Antiquities Act. The final letter was revised to reference other public lands around Glen Canyon NRA, leaving open the possibility for adding the sites noted above.

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From: Sam Kalen 4/25/96 11:42AM
To: John Leshy, Dave Watts, Robert Baum.
cc: Edward Cohen.
Subject: Re: Antiquities Act.

As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions:

1. Is that right? Does it have to be in writing?

2. What is the optimum timing for such a letter—before we start any work?

3. Does the letter have to be public (is it foiable at any time)? Could the President claim executive privilege or is there some other basis for withholding the letter, at least until the Secretary forwards recommendations?

4. Does the letter have to be specific geographically; e.g., ''give me recommendations on use of the Act in Oregon'' or ''on BLM lands in western Oregon'' or is ''nationwide—anywhere on lands managed by agencies under your jurisdiction'' OK?

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e., what is the appropriate relief?

Please give me your off-the-top-of-the-head reactions by return e-mail, and keep this close. Thanks.

I don't know what the Dept. has recommended or written in the past, but my recollection (and I will check) is that the issue was raised in connection with Alaska v. Carter and I think the court indicated that EIS not needed when President asks for recommendation. And that case was decided well before more recent NEPA law—e.g., NAFTA case, which further suggests that Secretary's response to President would not be an ''action'' under NEPA; of course, one could also argue a Douglas County type analogy (status quo exception for designation of monument if NEPA even applied to Executive and thus surely status quo exception for the recommendation on such designation). Additionally, to make it even less like any action under NEPA, the President's request could be for a list of areas in a certain region that DOI already has indicated are WSAs, ACECs, etc. As for FOIA, couldn't we argue deliberative process exception until designation—with harm being that disclosure would prompt nuisance type activities in the area. sam.

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Record type: Federal (All-in-1 Mail).
Creator: Thomas C. Jensen (Jensen, T) (CEQ).
Creation date/time: 23–Jul–1996 15:30:42.34.
Subject: Potus letter re: Utah.
To: Peter G. Umhofer
CC: Kathleen A. McGinty.

Text: Peter, I need your help.

The following text needs to be transformed into a singed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's? Todd Stern's?) but it must be prepared and signed ASAP.

You should discuss the processing of the letter with Katie, given its sensitivity.

Dear Secretary Babbitt, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

As I stated when I raised this with you in conversation some weeks ago, I would ask that you provide to me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

BC.

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Record, type: Federal (all -1 Mail).
Creator: Thomas C. Jensen (Jensen—T) (CEQ).
Creation date/time: 25-JUL-1996 11:40:06.21.
To: Peter G

Text: Peter, Here's a redraft of the POTUS cover memo regarding the POTUS letter to Babbitt on Utah. I've rewritten it to meet suggestions from Todd Stern. These changes may also address questions that Wes raised.

*Tom*

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ATTACHMENT 1

Att Creation time/date:25-JUL-1996 11:38:00.00
ATT Bodypart Type:p
ATT Creator; Thomas C. Jensen

Text:

Memorandum to the president.
From: Kattie McGinty.
Subject: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Interior Secretary Babbitt. The letter will serve as a critical piece of the administration record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capital Reef, Cedar Breaks, Dinosaur, National Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The letter serves to engage the Secretary in his role as executive staff to you.

Ordinarily, if the Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or the other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review.

The text of the letter is modeled after the letter sent by President Carter to the Interior Department seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approproximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their finding of legality. We recommend that you sign the letter.

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*Washington, DC, July 25, 1996.*

Memorandum to the President.
From: Kathleen A. McGinty.
Re: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Secretary of the Interior Bruce Babbitt. The letter will serve as a critical piece of the administrative record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park will be studied: the Grand Staircase, Kaiparowits Blateau, and Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant

ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Latie Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region, includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

These lands were at the heart of the recent legislative battle over Utah wilderness. They are, in sum, much of what the parties were fighting over. Environmentalists value the area for its astonishing beauty, remoteness, and ecological integrity. Development interests want to tap the coal resources of the Kaiparowits Plateau and, through road construction open now wild areas to commercial use.

The Kaiparowits Plateau lies in the center of the area. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah. The other lease holder, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade. Coal development on the Kaiparowits would damage the natural, cultural, and historic values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways to pressure the Dutch company to surrender its leases in exchange for coal elsewhere.

Should you decide, based on the Secretary's recommendations, to designate one or more national monuments in the area, your action will be widely and vigorously supported by national environmental groups and advocates. They will be stunned and delighted by the boldness and scope of the action. There will be significant public support in those areas in which most visitors to southern Utah reside, including California, Colorado, Arizona and the Salt Lake City area. National print media strongly supported the Administration's pro-Utah wilderness stance and can be expected to support monument designations.

Utah's congressional delegation and governor will be angered by the action. CEQ is in consultation with the Counsel's office to identify measures to reduce adverse effects on matter within the control of the Senate Judiciary Committee, chaired by Senator Orrin Hatch (R-UT). Republicans are likely to characterize the action as an aspect of the so-called ''War on the West.''

The text of the attached letter is modeled after the letter sent by President Carter to the Department of the Interior seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their findings of legality.

We recommend that you sign the letter seeking information and advice from Secretary Babbitt.

THE WHITE HOUSE,
*Washington, July 24, 1996.*

Hon. Bruce Babbitt,
*Secretary of the Interior, Washington, DC.*

DEAR BRUCE: As I said in conversation with you some weeks ago, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

I would like for you to provide me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond to this request as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

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Record Type: Federal (All-in-1 Mail).
Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).
Creation date/time: 29-JUL-1996 09:31:39.65.
Subject: Utah letter.
To: Todd Stern.

Text: wanted to just reiterate what I said about the timeliness of the letter because I was worried that, on first iteration, I may have confused you.

The president will do the Utah event on Aug 17. However, we still need to get the letter signed ASAP. The reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secy to look into these lands to see if they are of important scientific, cultural or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however.

So, letter needs to be signed ASAP so that secy has what looks like a credible amount of time to do his investigation of the matter. we have opened the letter with a sentence that gives us some more room by making clear that the president and babbitt had discussed this some time ago.

Many thanks.

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[Document 36]

*August 5, 1996.*

Memorandum to Marcia Hale.
From: Kathleen A. McGinty.
Re: Utah Event Calls.

Leon Panetta asked that I prepare talking point for you to use in making calls to certain western elected officials regarding the proposed Utah event.

My notes indicate that Leon wanted you to call Governor Roy Romer, Governor Bob Miller, former Governor Mike Sullivan, former Governor Ted Schwinden, Senator Harry Reid, Senator Richard Bryan, and Representative Bill Richardson to test the waters and gather their reactions.

The reactions to these calls, and other factors, will help determine whether the proposed action occur. If a final decision has been made on the event, and any public release of the information would probably foreclose the President's option to proceed.

I would be happy to speak with you about this or provide any additional information you may require. If I am unavailable, Wesley Warren and Tom Jensen of my staff are prepared to assist you.

Attachment.

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*August 14, 1996.*

Memorandum to the President.
From: Katie McGinty.
Subject: Proposed Utah Monument Designation and Event.

INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain BLM lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the ''Grand Staircase-Escalante National Monument,'' a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the Interior Department's Bureau of Land Management.

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final versions should be transmitted to the White House today and should be ready for execution within 24 hours.

OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is sere, but strikingly beautiful. Because of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15 minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with event logistics. Based on our experience with the proposed ''condor release'' event (which would have occurred in the same general area), I estimate that an appropriate event could be organized with roughly 48–72 hours lead time. Secretary Babbitt notes that this option would have the most confrontational or ''in-your-face'' character of the three.

The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same

confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant the Interior Department additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Pheonix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Gov. Miller's concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since World War II, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the Bureau of Land Management in southern Utah be designated as the ''Grand Staircase-Escalante National Monument.''

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 46 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, 'with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

The new monument would be subject to valid existing rights, but would preclude new mining claims in the area.

The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

The principal substantive effect of the monument designation will be on a proposed coal mine on the Kaiparowits Plateau.

The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade.

Coal development on the Kaiparowits would damage the natural values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways (described at length in the Secretary's attached memo, to persuade Andalex to surrender its leases in exchange for coal elsewhere.

This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of envrionmental groups and, based on the editorial written on the subject during the Utah wilderness bill debate, would be widely hailed in the media.

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*Washington, DC, August 14, 1996.*

Memorandum for the President.

From: Kathleen A. McGinty.

Re: Proposed Utah Monument Designation and Event.

INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain Bureau of Land Management (BLM) lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the ''Grand Staircase-Escalante National Monument,'' a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the BLM of the Department of the Interior (DOI).

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final versions should be transmitted to the White House today and should be ready for execution within 24 hours.

OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is sere, but strikingly beautiful. Because of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15-minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with even logistics. Based on our experience with the proposed

''condor release'' event (which would have occurred in the same general area), I estimate that an appropriate event could be organized with roughly 48–72 hours lead time. The Secretary of the Interior, Bruce Babbitt, notes that this option would have the most confrontational of ''in-your-face'' character of the three.

The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant DOI additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment square with the positive reactions by Senator Harry Reid (D–NV), Governor Roy Romer (D–CO), and Representative Bill Ricahrdson (D–NM) when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Governor Bob Miller's (D–NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since World War II, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the BLM in southern Utah be designated as the ''Grand Staircase-Escalante National Monument.''

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

The new monument would be subject to valid existing rights, but would preclude new mining claims in the area.

The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

The principal substantive effect of the monument designation will be on a proposed coal mine on the Kaiparowits Plateau.

The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with DOI to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed DOO's offers to pursue a trade.

Coal development on the Kaiparowits would damage the natural values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways (described at length in the Secretary's attached memo) to persuade Andelex to surrender its leases in exchange for coal elsewhere.

This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of environmental groups and, based on the editorials written on the subject during the Utah wilderness bill deb, would be widely hailed in the media.

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Record Type: Federal (All-in—Mail).
Creator: Kathleen A. McGinty (McGinty—KA1) (CEQ).
Creation date/time: 23–Aug–1996 16:29:34.89.
Subject: Utah—weekly report.
To: Peter G. Umhofer.
CC: Thomas C. Jensen

Text: As you know, a draft national monument declaration has been prepared for your review by the Department of Interior. Per your request, the Department studied the area and found it incredibly rich archaeologically (anasasi ruins) and ecologically (unique and pristine natural resources); already in Federal ownership, and therefore, suitable for monument designation under the Antiquities act. In addition, Interior also reports that currently, a foreign coal company called Andalax Resources is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 22 mile road that they would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—mine proposed; mine requesting use of federal land. Under these circumstances last year, your exercised authority to withdraw surrounding land from mining activity. Like the monument designation here, that action did not stop the Yellowstone mine, but it did erect significant barriers to it.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a ''War on the West'' backlash, and indeed, the Utah delegation—including Bill Orton—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's ''Whine on the West'', and in many other places in the west (CO, CA, WA, OR, NM) this would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

EXECUTIVE OFFICE OF THE PRESIDENT,
*Washington, DC, August 23, 1996.*

Memorandum for the President.
From: Kathleen A. McGinty.
CC: Leon Panetta.
Re: CEQ Weekly Report.

UTAH

As you know, a draft national monument declaration has been prepared for your review by the Department of the Interior (DOI). Per your request, DOI studied the area and found it incredibly rich archaeologically (anasasi ruins) and ecologically (unique and pristine natural resources). Because the area is already in Federal ownership, it is therefore suitable for monument designation under the Antiquities Act.

DOI also reports that a foreign coal company called Andalex Resources currently is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 20 mile road that they would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—a proposed mine requesting use of federal land. Under these circumstances last year, you exercised authority to withdraw surrounding land from mining activity. That action did not stop the Yellowstone mine, but it did erect significant barriers to it as would the monument designation here.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a ''War on the West'' backlash, and indeed, the Utah delegation—including Congressman Bill Orton (D-UT)—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's ''Whine on the West'', and I believe that in many other places in the west (CO, CA, WA, OR, NM) this initiative would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

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EXECUTIVE OFFICE OF THE PRESIDENT,
*September 6, 1996.*

To: Elisabeth Blaug, Thomas C. Jensen, Brian J. Johnson,
From: Kathleen A. McGinty, Council on Environmental Quality.
Subject: Wkly report graphs.

UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the administration is considering a national monument designation. I understand that there are no quotes in the story, so it is based only on ''the word about town.'' I have called several members of Congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

COUNCIL ON ENVIRONMENTAL QUALITY,
*Washington, DC, September 6, 1996.*

Memorandum for the President.
From: Kathleen A. McGinty.
CC: Leon Panetta.
Re: CEQ Weekly Report.

UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation. I have called several members of Congress to give them notice of this story and am working with Office of Political Affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised. This could lead the Utah delegation to try efforts such as a rider on the Interior Appropriations bill next week to prevent you from taking any such action.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

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Creator: Brian J. Johnson (Johnson, BJ) (CEQ).
Creation: Date/Time: 10–Sep–1996 17:07:20.19.
Subject: Get a load of this from Kenworthy
To: Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren, Shelley N. Fidler.
Text:

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ATTACHMENT 1

Att Creation Time/Date: 10–Sep–1996 14:36:00.00
Att Bodypart Type: E.
Att Creator: Kenworthy, Tom.
Att Subject: utah, again.
Att To: smtp: johnson.

Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo, Clinton said: ''You don't know when to take yes for an answer.'' Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. Give me a heads up if its imminent—I can't write another story saying it's likely to happen, but it would be nice to know when it's going to happen for planning purposes—Tom Kenworthy.

ps—thanks for the packet.

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ATTACHMENT 2

Att Creation Time/Date: 10–Sep–1996 17:01:00.00
Att Bodypart type: D
Text:
RFC–822–headers:

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Record Type: Federal (All-in-1 Mail).
Creator: Shelley N. Fidler (Fidler—S) (CEQ).
Creation Date/Time: 10–Sep–1996 17:09:13.8.
Subject: Re: Get a load of this from Kenworthy.
To: Brian J. Johnson, Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren.

Text: why didn't he write about MO that would have been useful and nice and well deserved. what a creep.

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Creator: Thomas C. Jensen (JENSEN—T) (CEQ).
Creation date/time: 10–SEP–1996 17:09:24.95.
Subject: re: Get a load of this from Kenworthy.
To: Brian J. Johnson; Kathleen A. McGinty; Wesley P. Warren; Shelley N. Fidler.

Text: Wow. He's got good sources and a lot of nerve.

Record type: Federal (External mail).
Creator: kenworthyt.
Creation date/time: 11–SEP–1996 22:22:00.00.
Subject: utah.
To: johnson.

Text: south rim of the grand canyon, sept 18—be there or be square

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ATTACHMENT 1

ATT Creation time/date: 11–SEP–1996 22:22:00.00
ATT Bodypart type: D

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COUNCIL ON ENVIRONMENTAL QUALITY,
*Washington, DC, September 16, 1996.*

Memorandum to the President.
From: Kathleen A. McGinty.
Subject: Utah Monument Proclamation.

The Secretary of the Interior prepared the attached materials in response to your request to him for information on federal lands in southern Utah that should be granted national monument protection under the Antiquities Act.

In brief, the Secretary proposes that you use your authority under the Antiquities Act to establish by proclamation the ''Grand Staircase-Escalante National Monument.'' The monument would cover approximately 1.7 million acres of federal land in south central Utah managed by the Interior Department's Bureau of Land Management (BLM).

National and Utah environmental groups have pressed Congress to designate approximately 5.7 million acres of BLM land in Utah as ''wilderness areas,'' a potentially more restrictive land use category than ''national monument'' status. The proposed Grand Staircase-Escalante National Monument would be welcomed by the environmental groups as a tremendous step toward protecting the areas they care most about, including the areas facing the greatest development threat from proposed coal mining. They will, however, continue to press their case for the much more stringent and larger wilderness designations.

The proposed national monument includes approximately 400,000 acres of BLM lands that environmental advocates want to see protected, but that have not been proposed for formal wilderness protection because the acres contain features that render them legally ineligible for wilderness status. The lands are essentially the interstices between large blocks of wilderness-eligible lands. They contain resources that qualify monument status, as described in the Secretary's memo to you.

Since news of the proposed monument leaked to the Los Angeles Times and Washington Post last week, we have received strong endorsements for this proposal from many quarters, including national and western newspapers, Democratic Senate and House candidates in Montana, Idaho, and Colorado, western Democratic Senators and House Members, key authorizing and appropriating committee members, western governors, and numerous environmental and conservation groups. The Utah delegation, including Democratic Congressman Bill Orton, Governor Leavitt, and the NRA have spoken out in strong opposition.

In this regard, much of the opposition from Utah has been premised on concern over the monument's possible impact on school revenues. We have compiled a considerable body of information on this issue. Based on CEQ, OMB, and Interior Department analysis of reports prepared by various State of Utah agencies, it appears that the proposed Andalex/Smoky Hollow Mine would generate less than $75,000 per year for Utah school expenses. Utah's annual education budget is

approximately $1.6 billion. The criticism based on ''lost'' school income appears to be wildly overstated.

Secretary Babbitt anticipated the level and type of opposition we have now heard directly. The Secretary has proposed that, in establishing the monument, you take several steps to reduce short- and long-term opposition from Utah's pro-development interests and rural residents. First, he proposes that BLM, rather than the National Park Service, manage the monument. Second, he proposes that you expressly disclaim any reservation of federal water rights for the monument. Third, the Secretary has proposed monument boundaries that exclude all developed areas and state park lands. Fourth, the Secretary has proposed that the new management regime for the monument area be defined through a multi-year public hearing and involvement process.

White House and Interior Department representatives have met or conversed extensively over the past week with members of the Utah delegation and the Governor's office. Based on those communications, we recommend that the monument proclamation disclaim any effect on management of grazing, hunting, or fishing activities. In other words, those activities would be governed by current law, notwithstanding the monument designation.

In addition, we recommend that you direct the Secretary to pursue negotiations with the State of Utah to trade state-owned parcels within the boundaries of the monument for federal lands of equal value elsewhere in Utah, thus ensuring that the state interests are protected. This direction would come in the form of a separate memo to the Secretary, not in the proclamation.

The draft proclamation submitted by the Secretary has been amended to reflect the hunting/fishing/grazing point described in the preceding paragraph.

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Record type: Federal (External Mail).
Creater: kenworthy.
Creation: Date/time:16-Sep–1996 12:30:00.00.
Subject: utah.
To: johnson.

Text: Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance.

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ATTACHMENT 1

Att Creation time/date: 16-Sep–1996 12:32:00.00
Att Bodypart type: D

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THE SECRETARY OF THE INTERIOR,
*Washington, September 13, 1996.*

Hon. ROBERT F. BENNETT,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR BENNETT: I am responding to your letter I received yesterday regarding the proposal to create a new national monument in southern Utah. While no final decision on establishing a monument has been made, your letter nonetheless raises valid concerns, and I do believe they merit full discussion.

You ask, first, whether the proposed monument would carry with it a reserved water right, and if so, what effect it might have on water users, the Colorado River Compact, and various proposed water development projects. These are questions of very legitimate concern, and I look forward to discussing them further with you, Congressman Orton, Governor Leavitt, and other interested parties.

Your second group of questions involves the effect of establishment of a national monument on state lands within its boundaries. We certainly share your concern that the state public school system not be impaired by establishment of a national monument. As you know, the issue of how to deal with state inholdings scattered across federal lands managed to protect nationally significant values is a common problem throughout the west. Many national parks, national forests, national monuments, and other projected federal areas contain state inholdings. The most common way to address these is for the state and the federal government to agree upon an exchange, whereby the state agrees to trade its inholding in return for public lands of equal value outside the protected area. I look forward to discussing this further with you.

Your final set of questions involves the status of existing mineral leases and rights in the area under consideration as a national monument. The only mineral interests of any significance I am aware of in the area are existing federal coal leases issued many years ago. Most of these leases have expired of their own terms, or been relinquished, or are in the process of being cancelled pursuant to law. Two leases or lease groups remain. One is held by Pacificorp, and we are currently in very serious discussions with that company to relinquish its lease on the Kaiparowits Plateau in exchange for bidding credits on federal coal of equal value elsewhere.

The remaining lease interest is held by Andalex Resources, Inc. This company has applied for a number of permits or other authorizations required by federal and state law in order to open a mine on the Kaiparowits Plateau. A draft environmental impact statement is currently being prepared on the proposal. Should a national monument be established, and should the company continue to seek permission to move forward with its proposal, a determination would have to be made whether the Andalex proposal is inconsistent with the purposes of the monument, and if so, whether and to what extent the company has valid existing rights that would have to be addressed.

I appreciate the opportunity I've had to discuss these issues with you, with Congressman Orton, and with Governor Leavitt. I look forward to further discussions in the very near future.

Sincerely,

*Bruce Babbitt.*

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## LET'S GET SERIOUS ON THE WAR ON DRUGS AND ILLEGAL ALIENS

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### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TRAFICANT. Mr. Speaker, earlier this year I introduced legislation, H.R. 805, that authorizes the use of military personnel to assist the Immigration and Naturalization Service [INS] and the U.S. Customs Service in their border patrol functions. It passed in the House overwhelmingly as an amendment to the fiscal year 1998 Defense authorization bill was pulled during the deliberation of the conference report. Yesterday I introduced legislation that expands on that important piece of legislation.

According to the official estimates, between 5 and 7 tons of illegal drugs are smuggled across our borders every day. In addition, thousands of aliens are snubbing Federal immigration laws and crossing our borders illegally daily. Federal agencies are complaining of being outmatched in both manpower and firepower by the drug lords and their henchmen. Law enforcement personnel are increasingly becoming targets of the violence. Barry R. McCaffrey, chief of the White House Office of National Drug Control Policy, received a death threat from the Tijuana cartel during an August tour of the border. Michael T. Horn, the Drug Enforcement Administration's chief of international operations, identifies the Mexican drug cartels as the ''greatest law-enforcement threat facing the United States today.''

According to the United Nations, drug trafficking has become a $400 billion-a-year business worldwide. Illegal drugs are bigger business than all exports of automobiles and about equal to the worldwide trade in textiles. More than 13 million U.S. residents buy illicit drugs and use them at least once per month, spending each year between $50 to $100 billion. The addictive nature of these drugs, their high price and their illegality may play a role in as much as half the street crime in the United States. Drug related criminal activity is seen as one of the main reasons for the substantial growth of the U.S. prison population and over one million persons are arrested each year on drug related charges in the United States.

Without question, the border should be patrolled by the Border Patrol. But the reality is, the INS is having an extremely difficult time hiring the 1,000 Border Patrol agents a year mandated by Congress. Currently, we have about 6,600 Border Patrol agents. The White House recently stated that 20,000 Border Patrol agents are needed to property patrol the border. We are not even close to meeting that figure.

My new legislation authorizes the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the INS and Customs in monitoring and patrolling our borders to stop the ever increasing flow of illegal aliens and illegal narcotics. It also establishes a training program for troops being deployed on our borders that would ensure that military personnel receive the proper training in border security procedures. It provides for specific information to be disseminated regarding issues affecting law enforcement in the areas of deployment. It directs a civilian law enforcement officer to accompany any deployment of troops to search, seize, and/or arrest any person who is suspected of criminal activity. And finally, it directs the Attorney General or the Secretary of the Treasury to notify the Governor and local officials of any State where military troops will be deployed and what type of tasks will be performed.

Our country is being invaded, and what better way to quell this invasion and protect our national security than utilizing the U.S. military. The military has the technology and manpower that we desperately need on our borders right now. Something must be done.

Mr. Speaker, the American people have spoken loud and clear. They do not want an open door policy when it comes to illegal aliens and drugs. Our national sovereignty is at stake. This is a good bill that makes sense. I urge my colleagues to join me in this fight and cosponsor this important piece of legislation.

## HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to F. Dale Kuenzli, executive director of the Michigan Bean Commission since 1993, who has announced his intention to retire in December. As the third executive to lead the commission since its 1965 inception, Dale has led the Michigan Bean Commission in a professional and enthusiastic manner during the past 4 years. He has worked tirelessly with local, State, Federal, and international officials to open markets to Michigan bean growers. He is known around the world as a brilliant spokesperson for Michigan farmers, with a talent for deciphering the complex language of agribusiness and financial markets. Not just a ''beansmith,'' as he is often called, Dale is also a well-rounded agribusiness person with a keen political acumen and a dedication to our vision for the future of Michigan's farm families. Dale is also known for his loyalty to his family and to his other passion, the Michigan State Spartans. Dale is also to be honored for his contributions to the apple industry, given his avid consumption of what is estimated to be a pound and half of apples every day. On the occasion of his retirement, we bestow upon F. Dale Kuenzli our highest esteem for his accomplishments, and wish him success in his future endeavors.

## HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

### HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, I join with my colleague, Mr. CAMP, in paying tribute to a gentleman who is legendary as an ambassador of our State's agriculture industry. As a skilled trader, an articulate emissary, and a singular man of honor and integrity, he has been a blessing for our bean growers, as well as an individual that will be difficult to fully replace. It has been my good fortune to have worked with Dale on many projects of importance to the dry bean growers of my district and State. I want to offer my personal thanks for all that he has done, and my best wishes for all that the future holds for him. Thank you, Mr. Speaker.

## THE SALE INCENTIVE COMPENSATION ACT

### HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. FAWELL. Mr. Speaker, Leronda Lucky is an industrious yellow page advertising salesperson for BellSouth in Ohio. She wants to be paid on commission and work as many hours as possible. ''My primary motivation,'' she says, ''to work long and hard hours is so that I can earn as much money as possible to support my family, save money for my children's education, and save for retirement.''

Unfortunately, Leronda must work as an hourly employee and is limited to working 9 to 5 each day, 40 hours per week and being paid overtime for hours over 40. ''My base pay and the prospect of overtime earnings do not motivate me,'' says Leronda. ''My choice is to be paid on a commission basis. Also my clients do not necessarily have 9 to 5 work hours. I need the flexibility to determine when I need to meet with the customers on their hours.''

Leronda Lucky's story is an example of how 1938-era workplace laws do not necessarily fit the workers or the workplace of the 1990's. Such antiquated laws end up hurting the very workers they were intended to help.

The 1938 Fair Labor Standards Act set the workweek at 40 hours and required that any additional hours worked be paid at one and a half times the base hourly wage. The law made workers hourly employees unless they met certain criteria to exempt them. Salesperson who work away from their employer's premise, in the law referred to as ''outside salesmen,'' were exempt, allowing them to work as many hours as they wished, when they wished, and for a commission if they so choose. This exemption was granted on an idea that professional salespeople work irregular hours in response to their customers' needs and they generally work on commission as opposed to an hourly wage.

In 1938, these salespeople were outside, communicating with their customers by traveling from town to town and visiting customers in person. In 1997, with the advent of fax machines, computers, e-mail, the Internet, modems, and advanced telecommunications, the once outside sales force has moved inside. These inside salespeople can work at one location—at an office, or even at home. Communications, paying for goods, and other transactions can be done electronically. The once outside sales force is today a more efficient, effective and profitable inside sales force. Without the 1938 law, these inside salespeople could earn wages that greatly exceed the amounts that are otherwise available through hourly pay rates plus overtime.

The House Subcommittee on Workforce Protections recently held hearings on this outdated law. Several inside salespeople, including Leronda Lucky, testified on the need to reform the 1938 Fair Labor Standards Act to make it fit the workplace of the 1990's. And so yesterday, along with my colleague on the subcommittee, Congressman ROBERT E. ANDREWS, I introduced H.R. 2888, the Sales Incentive Compensation Act, to make this area of the law adapt to today's work force.

## H.R. 2888, THE SALES INCENTIVE COMPENSATION ACT

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, many American workers today earn their living by selling goods and services to customers across the continent or across the globe. Such salespeople increasingly find that their paycheck is determined by how well they produce and how much they sell, because they are paid in part according to a bonus or commission system. Salespeople who can substantially increase their salary by earning more commissions ought to be allowed to work longer hours and perform their jobs more effectively, in order to make more money. Unfortunately, current law keeps them from earing as much as they could.

I am proud to join with my colleague, Congressman HARRIS FAWELL, to introduce H.R. 2888, the Sales Incentive Compensation Act. This common-sense legislation will give fear greater flexibility to salespeople and their employees, by allowing salespeople to choose to work harder in order to earn higher commissions. And it ensures security and fairness for all workers, by precluding abuses that would force employees to work longer hours without substantial reward.

Our bill provides flexibility to meet the demands of the workplace and the market. Today's customers demand goods and services at different times and in different time zones. Today's information economy allows a more flexible sales force to make sales around the clock. The Sales Incentive Compensation Act gives employees the flexibility to adjust their schedule in order to earn more money in commission, rather than limiting their earning potential. For instance, a working mother may find it easier to make sales calls from home, while the employer benefits from a more productive sales force.

In addition, our bill guarantees security and protection for workers. The Sales Incentive Compensation Act ensures that lower earning workers cannot be exploited or denied the protections of time-and-a-half overtime for work beyond a 40-hour week. The bill establishes a stringent test which guarantees that salespeople cannot be exempted from the wage and hour laws unless they receive a substantial minimum salary and are guaranteed the opportunity to earn significant commissions or incentive-based compensation. Employees cannot be exempted from the 40-hour work week unless they meet this test.

The Sales Incentive Compensation Act is based on the principles of fairness and opportunity. Under our bill, salespeople must be given the opportunity to continue earning commissions if they choose to work longer hours and are successful in making more sales. The rate of bonus pay for extra sales must be as good, or better, than the rate for the salesperson's minimum sales. Employees would have an incentive to work harder, and employers would be required to pay them a fair commission for each additional sales that they make. Thus, both businesses and salespeople will share in the increased profit and productivity that will be created when H.R. 2888 becomes law. I urge my colleagues to support this sensible and crucial legislation.

## NATO INFRASTRUCTURE FAIR SHARE ACT

### HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation that will ensure our allies

pay their fair share to the North Atlantic Treaty Organization Security Investment Program [NSIP]. My legislation will reduce the amount the United States contributes to NSIP to $140 million in each of the next 3 fiscal years. This bill will save taxpayers $177 million

NSIP is a program designed to improve the transportation and infrastructure of NATO member nations. Under the fiscal year 1998 military construction appropriation bill signed by the President on September 30, 1997, the U.S. contributes $153 million to NSIP. This amount was appropriately reduced from the fiscal year 1996, $161 million and fiscal year 1997, $172 million contributions. The United States still pays a disproportionate amount into this account, however, while receiving minimal benefit to our own infrastructure.

The NSIP supports projects and activities listed by NATO as capability packages, standalone projects, urgent requirements, and minor works. The projects are then placed in the following categories: authorized works, intra-theater, and trans-Atlantic force mobility; surveillance, reconnaissance, and intelligence systems; logistics support and re-supply; lines of communications control, training support, and exercise facilities; nuclear capabilities; and political-military consultation. These programs are important and I strongly advocate a prepared military. But why do we continue to spend money to expand logistic support and re-supply in Europe when we continue to downsize military depots in this country? Depots are necessary to provide the logistic support and re-supply efforts essential to defend our Nation from a military attack.

Why do we continue to spend money on transportation infrastructure to enhance force mobility in Europe while we continue to cut funding to our own Nation's transportation infrastructure? The Interstate Highway System was conceived so the U.S. military would be able to move forces and equipment from coast to coast. Highway capital investment per 1,000 vehicle mile of travel in the United States decreased by 17 percent from 1985–95, while travel increased by 37 percent. The United States needs an additional $15 billion annually to maintain current conditions on our roads and bridges and another $33 billion annually to improve conditions and performance. We must find alternate sources of income to improve our roads in this country.

I am an advocate of a strong national defense and have fought to increase money in the Defense budget and to fund the weapons programs essential to our military readiness. However, at a time when we are closing military bases and putting American soldiers out of work, it is wrong for American taxpayers to continue paying billions of dollars annually to benefit wealthy nations such as England, Germany, and France while these same countries use their capital to compete with us in international markets. Our country has for too long assumed the lion's share of the cost of defending our allies. These countries do not have war-torn, war-tattered economies. These countries are tough, shrewd international competitors. They have strong economies that give them the capability to pay for their own defense.

I believe NATO is one of the organizations that precipitated our victory in the cold war. As we prepare to expand NATO to include the emerging democracies of Poland, the Czech Republic, and Hungary, we must realize that expanding NATO will not be easy and will in fact be a rather expensive operation. I advocate expanding NATO and do not believe we should make these countries, which are feeling the growing pains of the change from a Communist economic system to a capitalist system, pay any more than they can afford. However, we must ask our wealthy European allies to pay an appropriate portion of the cost of expanding the infrastructure that is needed to defend these nations.

When I first came to Congress, I pledged to work to enact legislation ensuring Texas receives an equitable share of transportation funds. This goal has yet to be achieved. However, while we continue to work toward that goal domestically, we can also work to see that U.S. taxpayers receive some benefit from every dollar they spend that is earmarked for infrastructure. This bill aims to do just that by decreasing the amount of money the United States contributes to the NSIP. For every dollar that Texas contributes to the national highway trust fund, it receives approximately $.77 cents in return. Massachusetts, on the other hand, receives $2.13 for each dollar it invests. Connecticut has a nearly 187 percent return on its dollar. Clearly, Texans already contribute transportation funds to other States. Why should we be asked to contribute transportation funds to other countries as well? My constituents do not receive adequate funds to repair our own roads, but they are asked to pay for the roads of people abroad.

America's infrastructure needs are great. With the heavy increase in the volume of traffic due to the implementation of NAFTA, we in Texas are more aware of that fact than most. The increase in the number of trucks on our highways has left many of our roads with potholes that have rendered them almost impassable. However, while the potholes remain along highways in east Texas, the taxpayers see their hard earned income going not to improve the Federal highways they use, but to build roads and highways in Germany, France, and England.

We have seen a tremendous amount of support for burden sharing in recent years. This support was evident when the House agreed to the conference report this year on H.R. 1119, the National Defense Authorization Act. That bill authorizes appropriations for fiscal year 1998 and 1999 military activities of the Department of Defense and prescribes military personnel strengths for those fiscal years. The bill contains important provisions on burden sharing. Section 1221 instructs the President to step up efforts to increase burden sharing from nations with whom we have military relations by having them take one or more of the following actions: increase their annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998; increase the amount of military assets they contribute to multinational military activities; increase the amount of annual budgetary outlays of foreign assistance; and in nations with U.S. military bases, increase their financial contributions to the payment of the U.S. military non-personnel costs.

The Defense authorization bill also includes a sense-of-Congress resolution dealing with the costs of enlarging NATO. Section 1223 contains a section that states: ''It is the sense of Congress that the analysis of the North Atlantic Alliance of the military requirements relating to NATO enlargement and of the financial costs tothe Alliance of NATO enlargement will be one of the major factors in the consideration by the Senate of the ratification of instruments to approve the admission of new member nations to the Alliance and by Congress for the authorization and appropriation of the funding for the costs associated with such enlargement.''

The burdensharing proposals that have been passed in recent years have proved to be an effective way of encouraging wealthy foreign countries to begin paying their fair share for their own defense. Legislation in 1989 called upon Japan to increase its share of the cost of stationing United States troops there. This amendment has led to billions of dollars in savings for the U.S. taxpayer since then, including over $3.7 billion last year. Japan now contributes 78 percent of the non-personnel cost of stationing United States troops there.

It is essential that we continue to stress the importance of burdensharing principles. Annually, we spend about 4 percent of our gross national product on defense while France spends a mere 2.5 percent and Germany a paltry 1.5 percent. As we have seen with the Japanese, if we apply pressure to nations capable of sharing in the cost of their defense, we will save United States tax dollars without removing one United States troop from foreign soil. I believe this bill is an important first step in improving our Nation's infrastructure and making our wealthy allies share the burden of their defense.

## VETERANS' DAY 1997

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GILMAN. Mr. Speaker, on the 11th day of the 11th month of the year 1997 we take time to remember those men and women who risked and sacrificed their lives for our Nation. It is a day to remember not only those who have lost their lives in battle but, also those who served valiantly and survived. Our greatness as a Nation could not have been achieved without the strong will and sacrifice of our citizens.

Veterans Day has been an American tradition since 1919, when Woodrow Wilson proclaimed Armistice Day to commemorate the November 11, 1918, Armistice that ended the fighting between the Allies and the central powers. This was our first step onto the international scene. It was a day of observance and remembrance for the 58,000 Americans who had died in World War I.

When the name for the day of observance was changed from Armistice Day to Veterans Day in 1954, it was proclaimed a day for honoring the veterans from all of our wars. The day however, still remained the 11th day of the 11th month, a date which marked the end of bloodshed that left the hope of lasting peace. While that peace did not last there is still hope that one day the world will learn to live together in harmony.

Until then it is important to remember those men who fought for freedom and dreamed that their efforts would bring peace to the world.

Our service men and women have also been our models. They have set a standard for our Nation in the eyes of the world.

As Woodrow Wilson stated on September 4, 1917: ''Let it be your pride, therefore, to show all men everywhere not only what good soldiers you are, but also what good men you are, keeping ourselves fit and straight in everything, and pure and clean through and through. Let us set for ourselves a standard so high that it will be a glory to live up to it, and then let us live up to it and add a new laurel to the crown of America.''

If we do not remember, we might forget and then their efforts might have been in vain.

President Eisenhower once called for Americans everywhere to rededicate themselves to the cause of peace. It is not only the job of our soldiers but the responsibility of all of us as American citizens to do what we can.

Our Nation's veterans have secured our Nation not only from attack but have secured our principles of freedom, equality, and democracy. These are the principles by which we, as American citizens live by.

For these reasons, let us remember all that our veterans have done for our Nation and our people not only today, but every day.

## SALUTE TO KAUFMAN COUNTY RED RIBBON CONTEST WINNERS

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HALL of Texas. Mr. Speaker, I had the privilege of presenting awards on October 18 to the essay contest winners of the Kaufman County Red Ribbon Drug Abuse Awareness campaign. These students are Amber Whatley of Mabank High School, Krystal Nye of Terrell Intermediate School, and Kristin Hanie of Forney Middle School. All three wrote about the issue of teenage drinking, and they made some valid points.

Amber Whatley reflected on the death of Princess Diana of Wales and the reports that the driver of her car was intoxicated. She noted that every 27 minutes someone is killed in a drunk-driving related accident, a tragedy that leaves loved ones ''marred with grief and angered that society continues to produce propaganda promoting the appeal of alcohol.''

Krystal Nye discussed the adverse effects of alcohol and the pressures that sometime cause teenagers to begin drinking. She noted that parents should be role models for their children and that the media ''should not make drinking look like it is something that is healthy for you.''

Kristin Hanie also wrote about the effects of alcohol and some of the reasons why teens might be tempted to try it. She mentioned several programs that help teens with alcohol problems, such as Ala-Teen and Al-Anon, and concluded, ''I pray everyday that people will learn alcohol is not the solution, and that someday this problem will be stopped.''

I enjoyed visiting with these students at the awards ceremony, and I commend their efforts to enhance teenage awareness of alcohol abuse. This Red Ribbon Campaign is an annual effort sponsored by the Texas Agricultural Extension Service in cooperation with the Texas A&M University System. Red Ribbon Week is recognized by the National Red Ribbon Campaign, which was celebrated October 18–25. I am always honored when Rita Winton invites me to participate in this important occasion.

Mr. Speaker, as we adjourn today, I ask my colleagues to join me in saluting these outstanding students of Kaufman County and all those young people throughout our Nation who recognize the dangers of teenage drinking and who are doing their best to help their fellow classmates and friends combat this problem. As Miss Whatley concluded, ''If action is taken by teenagers, America can look forward to society's success in developing alcohol-free individuals and a more productive future.''

## SECTION 110 OF 1996 IMMIGRATION REFORM NEEDS THOUGHTFUL GO-SLOW APPROACH TO PREVENT CHAOS

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. LAFALCE. Mr. Speaker, on September 16, 1997, I introduced legislation to amend section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by exempting Canadian nationals who are not otherwise required by law to possess a visa, passport, or border-crossing identification card. This bill, H.R. 2481, now has 41 cosponsors who recognize the urgency of correcting the flaws in section 110.

Section 110 of the 1996 Reform Act mandates that an automated entry-exit system be established that would allow INS officers to match the entrance date with exit dates of legally admitted aliens. Congress included this section at the last minute during the House-Senate conference of the bill with the intent of solving the problem of overstaying visa holders—aliens who enter the United States legally but overstay their allotted time. Because the U.S. does not have a departure management system to track who leaves the United States, a new entry-exit system was thought to be the vehicle to solve the problem.

In the rush to complete the bill before the end of the fiscal year on September 30, conferees did not have time to give this provision the scrutiny it deserves. As a result, Congress missed the realities of our northern border with Canada. Historically, Canadian citizens have not been required to show documentation, other than proof of citizenship, when entering the United States. The same courtesy is granted to United States citizens entering Canada.

Any attempt to install a documentation system at the northern border will bring intolerable chaos and congestion to a system already strained. Last year, more than 116 million people entered the United States by land from Canada. Of these, more than 76 million were Canadian nationals or United States permanent residents. More than $1 billion in goods and services trade crossed our border daily adding to the enormous traffic flow. To implement section 110 as it now stands would not only impede the flow of people and goods, it would counter the purpose of the United States-Canada Accord on Our Shared Border to ease and facilitate the increased crossings of people and goods between the United States and Canada.

As I have said before, I have a particular interest in the problem of delays and congestion at our northern-border crossings. My district, which includes Buffalo and Niagara Falls, has more crossings than any other district along the border. In a relatively small area, we boast four highway bridges and two railroad bridges. I know from personal experience the problems that delays and congestion can cause at these crossings.

Moreover, it is important to recognize the sense of borderless community that those living on the United States and Canadian sides of the border experience on a daily basis. Friends, family, and business associates travel easily, indeed seamlessly, across the invisible border to shop, enjoy theater and restaurants, athletic events, and other recreational opportunities. Hampering this camaraderie of community because of the need to resolve border problems that are not an issue at the northern border would be folly.

When I introduced H.R. 2481, my intent was not only to correct a flaw, but to initiate debate on the issue, to get the ball rolling, if you will, toward resolving a critical problem. This objective has been achieved. The response and enthusiastic support for this effort tells me unmistakably that this is a serious problem that must be fixed.

Today, I am introducing a bill that addresses the issue more broadly. The Border Improvement and Immigration Act of 1977 not only seeks to correct the problem at the northern border created by section 110, but it also takes a comprehensive but go-slow approach to analyzing the problem and determining the best solutions.

First, the bill would allow an entry-exit system to be implemented only at airports. It specifically exempts from section 110: any alien entering at land borders; any alien lawfully admitted as a U.S. permanent resident, or greencard holder; any alien for whom documentation requirements have been waived under the Immigration and Nationality Act, primarily Canadians.

Second, the bill requires the Attorney General to submit a report to Congress in 2 years on the feasibility of developing and implementing an automated entry-exit control system as prescribed in section 110, including arrivals and departures at land borders. The study must assess the cost and feasibility of various means of operating such an entry-exit system, including various means for developing a system and the use of pilot projects if appropriate. The report also would include how departure data would be collected if the system were limited to airports and a person arriving at an airport departed via land border.

Of particular note is the inclusion of possible bilateral agreements with Canada and Mexico to share entry and exist systems as a means to achieve the objectives of section 110. The proposal, which I have raised with the Canadian Ambassador and the Commissioner of the INS, would allow the United States to use, for example, Canada's entry data as our exit data; while Canada would similarly use United States entry data as its exit data. I believe this is an important cooperative effort that could be studied and possibly pursued under the umbrella of the United States-Canada Shared Border Accord.

Third, the bill will increase the number of INS border inspectors in each of 3 fiscal

years, 1998–2000, by not less than 300 full-time persons each year. Not less than one-half of these new INS inspectors shall be assigned to the northern border. Similarly, Customs inspectors shall also be increased at the land borders by not less than 150 full-time persons in each of 3 fiscal years, 1998–2000, and not less than one-half of the Customs inspectors in each year shall be assigned to the northern border.

Mr. Speaker, I believe my new bill more comprehensively addresses the problematic issues that currently are found in section 110. It is critical that section 110 as it currently stands be amended in order to avoid unnecessary chaos at both the northern and southern land borders. An automated entry-exist system is not one to be implemented without careful consideration of the many issues involved. The Border Improvement and Immigration Act of 1997 provides the basis for making a decision on whether to go forward with such a system.

## STATEMENT COMMENDING HANOVER COUNTY PUBLIC SCHOOLS

### HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BLILEY. Mr. Speaker, today I would like to recognize Hanover County public schools as the first school system ever to win the U.S. Senate's Award for Continuing Excellence, or ACE. The ACE is awarded to organizations demonstrating ''sustained exemplary performance in quality and productivity improvement.'' Since its establishment 14 years ago, it has only been given out six times, and never before to a public school system. Originally designed to recognize quality in private business, ACE has expanded over the years to include public sector agencies and remains one of the Nation's most prestigious awards.

Hanover County public schools have repeatedly been recognized for the excellence of their programs, the commitment of their teachers and administrators, the support of their parents and the community, and the achievement of their students. They qualified for the continuing excellence award by winning the Medallion of Excellence Award in 1991 and have continued to maintain a high performance on standardized tests, a high percentage of advanced studies graduates, and an exceptionally low drop-out rate.

The U.S. Senate's Award for Continuing Excellence is a tribute to the dedicated efforts of the many individuals who have created in Hanover County one of the finest public school systems in Virginia, and in the Nation.

## STRONG ENCRYPTION NEEDED TO PROTECT NATIONAL SECURITY

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DREIER. Mr. Speaker, computers not only make virtually every aspect of our lives easier, we depend on their efficient operation to help safeguard our national security, economy, and way of life. Yet all it takes is a determined criminal with a personal computer and an Internet connection to cause a great deal of harm. That's why it's crucial that America protects sensitive information in computers with the best technology available.

Ensuring the security of information stored in computers, and preventing criminals from breaking into critical systems requires encryption software, which uses mathematical formulas to scramble sensitive information so it can only be accessed by authorized users, who have the 'key' to decode the material. The more complex the formula, the tougher it is for an unauthorized user to decipher the scrambled material. While American companies generally hold an edge over their foreign competitors in the development of advanced encryption software, export controls allow them to export only relatively simple encryption products. Over 400 companies outside the United States produce encryption software, and most are not subject to the same restrictions as U.S. companies. These companies are increasing their share of the rapidly expanding world market for encryption software at the expense of U.S. firms, which are not allowed to compete.

The Clinton administration has proposed a radical change in encryption policy, one that would impose a mandatory key recovery system on encryption software used in the United States and exported abroad. Key recovery would require the maintenance of a centralized databank with all the Nation's encryption keys, and is primarily intended to help law-enforcement and increase national security. If police or other law-enforcement officials believe criminals have encrypted information that would help prevent a crime or catch a lawbreaker, they would obtain a court order, then retrieve the key from the centralized database. They could then convert the encrypted information back into its original form. Not only does this proposal raise concerns about how to prevent criminals from breaking into the key database, and about the privacy of law-abiding users of electronic commerce and Internet communications, it probably won't work.

While the Clinton administration is working to require that U.S. companies only export advanced encryption software that uses a key recovery system, many other nations will impose no similar requirement on their firms. Because criminals will find it easy to import that software over the Internet, by electronic mail, on compact discs, or in some other way, they will continue to use encryption programs that U.S. law enforcement agencies don't have keys to. The people most affected by the mandatory key recovery system will be lawful Internet users, not the criminals and terrorists it is intended to combat.

Furthermore, prohibiting the export of encryption programs that don't include a key recovery system will make it impossible for American companies to compete with foreign firms that are not similarly limited. American companies will stop competing in a key technology in which they now hold a lead. It will cost U.S. jobs, and prevent advances in a technology that is critical to defending the United States from terrorists, criminals, and even simple hackers. Instead, Congress should lift the controls on encryption software, encourage development of this promising technology, and focus resources on helping police develop better tools to catch criminals who use encryption in the commission of a crime.

## THE WORKING AMERICAN'S TAX RELIEF ACT

### HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation to improve take home pay and reduce taxes for every working American earning a paycheck. The bill, titled the Working American's Tax Relief Act, allows taxpayers to deduct from their taxable income that portion of their income withheld for payroll taxes.

The economic report of the Census Bureau this fall had good news for many Americans. The economy is growing, median income rose for the second straight year, unemployment is low, and welfare rolls are dropping.

However, the working families and small businesses of America are not reaping the rewards of our recent prosperity. Average wages for full-time male workers fell last year, and median income has not fully rebounded since the last recession, leaving the living standard of a typical family below 1989 levels. For the 60 percent of American households in the lower- and middle-income brackets, the situation is even more grim. Real income for these families has fallen for the past 7 years.

Mr. Speaker, this is why people seem to be working harder and longer and not getting ahead. This is why Americans working a 40-hour week struggle to make ends meet. There were many good provisions in the Taxpayer Relief Act of 1997, and I supported the bill. However, the Working Americans Tax Relief Act builds on our success and offers much needed tax relief to every American bringing home a paycheck.

Including both the employee and employer contribution, over 70 percent of Americans pay more in payroll taxes than in Federal income tax. Even worse, the burden of this tax falls most heavily on the over 90 percent of Americans who earn $65,400 or less. Working, middle-class Americans earning up to $65,400 a year pay a combined 15.3 percent of their income to fund the Social Security and Medicare programs. For taxpayers earning more than that, every dollar earned over $65,400 is earned payroll tax free. Small businesses pay this tax regardless of the profits they make in a year, and for many small businesses payroll taxes have become the greatest tax burden. Small business owners and employees need relief from the tax. I am not proposing to change the structure of payroll taxes in America, but I am proposing to make the burden of the tax easier to bear.

American taxpayers currently pay income taxes on the portion of their income withheld from their paychecks for payroll taxes. Compounding the injustice of this tax is the fact that many of these taxpayers will again pay taxes on this income when they receive it back in the form of Social Security benefits after retirement. To eliminate this double taxation and offer the average American worker over $1,000 in tax savings, my bill grants all workers, including the self employed, a deduction from taxable income equal to the amount of that worker's payroll taxes.

I urge my colleagues on both sides of the aisle to join me in supporting legislation to end double taxation of income and offer real tax relief for middle-class Americans and small businesses.

## NATIONAL DRUG CONTROL STRATEGY

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. PORTMAN. Mr. Speaker, I rise today to express my serious concerns about the failure of the Department of Defense to provide sufficient support for the National Drug Control Strategy in its fiscal year 1999 request. I also would like to commend the Office of National Drug Control Policy for refusing to certify the DOD budget request.

After making tremendous progress in the war on drugs from 1979 through 1991, drug abuse among our young people has been rising significantly over the past 5 years. Drug abuse is not only threatening the health and lives of our young people, it is a predominant factor behind violent crime, welfare dependency, teenage pregnancy, rising health costs, lower economic productivity, the spread of AIDS, and many other problems. Now is not the time to be backing away from our responsibilities to attack this problem.

Many of us in Congress have been working hard over the past few years to reverse these disturbing trends. We have been working in cooperation with General McCaffrey to support and enhance the National Drug Control Strategy. We must continue to support the goals of the strategy on both the supply and demand sides.

We strongly support the effort to ensure that the Department of Defense amends its fiscal year 1999 budget request to include an additional $141 million in drug control initiatives. These funds are absolutely essential to enhance efforts in the Andes, the Caribbean, Mexico, and along our borders, where this battle has to been fought initially. With a strong effort in source countries and along our borders, we can help reduce the use of drugs in the United States, which is crippling our young people.

Currently, counterdrug spending represents only 0.3 percent of the total Department of Defense budget. Despite rising drug use, the Department's counterdrug effort has declined by 2 percent since fiscal year 1996.

I also believe that it is vitally important to have a coordinated effort with leadership from the Office of National Drug Control Policy. This is a good example of why we need a drug czar. If we all stand behind the same goals and work hard in every agency and in Congress to support and enhance the anti-drug efforts at home and abroad, we will reverse the disturbing escalation in illegal drug use in our communities.

I call on the Department of Defense to bring its budget request in line with the National Drug Control Strategy and to help support the comprehensive Federal effort we must have if we are going to reduce drug abuse.

## THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM INCENTIVE ACT OF 1997

### HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mrs. JOHNSON of Connecticut. Mr. Speaker, for many years our Government has supported health care training programs to increase the number of health care professionals to serve our Nation's people. One of the most successful health training programs we have created is the National Health Service Corps Scholarship Program. Enacted more than 20 years ago, the purpose of this program is not only to encourage the training of top quality health care professionals but also to improve access to health care for Americans living in medically underserved areas.

This program encourages the training of primary care providers, focuses on preventive care, and targets medical manpower shortage areas. The graduates of this program work in our migrant health centers and in both rural and inner city community health centers, such as the community health center in my hometown of New Britain.

Program recipients are given a scholarship award, covering the costs of tuition and fees, together with a monthly stipend covering living expenses. In response to this award, the National Health Service Corps scholars are obligated upon completion of their training to provide a year of full-time primary health care in a designated shortage area for each year of scholarship funding. These areas are located in some of our Nation's neediest communities which are desperate for primary care providers.

Unfortunately, Mr. Speaker, this successful program is now in jeopardy—not from lack of funds, but from the new IRS interpretation of section 117(c) of the Internal Revenue Code to treat these scholarship amounts as fully taxable income.

Many scholarship recipients have tuition and fees amounting to more than $36,900; income tax withholding at the required 28 percent can eat up nearly all, if not all, of the stipend portion of the award. If the student has additional income—a part-time job for example—he or she could face an additional tax liability on that income, though their money available for daily living expenses has not changed.

I have been contacted by a concerned student regarding this IRS interpretation. Jenny, a student at Yale University, is studying to be a nurse practitioner. As a recipient of a National Health Service Corps Scholarship, her $30,000 a year tuition is paid directly to the school; she receives $3,500 toward school fees, equipment, books and supplies, and a small stipend for living expenses for which income taxes are withheld. She was recently notified by the Department of Health and Human Services that income taxes would be withheld on the scholarship money as well.

Jenny will now be taxed at the 28-percent rate because the entire scholarship amount will now be included in her income, even though she never sees the majority of this money that is sent directly to her school for tuition. Jenny is now worried about her living expenses, because the new additional withholding will almost eliminate the stipend that she relies on for her room and board. Since Jenny already has a lot of debt from her undergraduate student loans, this abrupt change in policy threatens her ability to afford to stay in school and makes it more difficult to fulfill her obligation to work as a nurse practitioner in an underserved area, where her wages would likely be lower.

In my view, the IRS position regarding its application of section 117(c) is simply wrong. First, this money is not disguised future compensation. In fact it is the opposite. It is recognition of the compensation forgone as a consequence of going to work in an inner city or underserved rural area where wages are often low because there are not the resources needed to support a health care professional's income. Second, there is little difference between the obligations required under the National Health Service Corps Scholarship Program and the obligations required by the debt forgiveness provisions we enacted this summer in the Tax Payer Relief Act of 1997. And there should not be a difference in the tax treatment of the school scholarship or loan amount in terms of taxable income.

Through the passage of the Tax Payer Relief Act, we in Congress affirmed our support for favorable tax treatment of medical student loans forgiven in exchange for future service in medically underserved areas. It seems inconsistent and arbitrary to tax a scholarship given in exchange for a future commitment of public service in a medically needy area, while exempting a student loan forgiven for a similar commitment from the tax.

We need to correct this aberration in tax policy now before this successful program is destroyed. We need to take immediate action to clarify the Tax Code so that those students who wish to undertake the obligations of the program are assured stable, predictable financing of their academic program in exchange for a commitment to serve our underserved communities. It is also important to ensure that communities continue to have access to low-cost, quality health care services and that community and rural health centers will continue to have health professionals available.

My bill will reverse the IRS position regarding the taxability of these scholarships. It will rectify tax policy inconsistency, and it will ensure that a well-run and successful program is not devastated by a bureaucrat operating in clear contradiction of the intention of this valuable, proven program. In addition, it will let people like Jenny continue with her studies and be assured that her scholarship and stipend are intact.

I ask my colleagues to join me in cosponsoring this legislation to save the National Health Service Corps Scholarship Program.

## 60TH ANNIVERSARY OF THE CALUMET CITY CHAMBER OF CONGRESS

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. WELLER. Mr. Speaker, I rise today to honor the 60th anniversary of the Calumet City Chamber of Commerce, an organization who represents a community rich in heritage.

The Chamber of Commerce is a strong and independent leader of the business firms of Calumet region, and thus addresses issues that affect its members and the community. The Chamber has lent greatly to the development of this fine community over the years and should be recognized for its spirit of leadership and vision.

Currently, the Calumet City Chamber of Commerce provides many services to its residents. From initiating the area's ambulance program to attracting new business to the area, the Chamber has shown a devotion to continuing to build and revitalize the region. Community strength, in part, stems from those who are willing to give back to their patrons, the very community they serve. We all share a vision of good schools, safe streets, and a healthy commerce. The Chamber should be commended to their dedication toward achieving this goal.

The 60th anniversary of the Calumet City Chamber of Commerce will be celebrated this evening, Saturday, November 8. At this time the Calumet City Chamber will install its new officers for 1998 who include: Frank Orsini, president, Mike Sawicki, vice president, Don Todd, treasurer, Kenneth M. Tease, executive manager.

Board of Directors: Tom Cornwell, Harry Jones, Jeanette Sackol, Elaine Lane, Bob Sanders, George Karl, Tom Sanders, Ray Mika, Jerry Eurley, Chris Martin, and Mike Gauthier.

It is truly fitting that this Chamber celebrate 60 years of history and progress. I extend my best wishes to the Chamber's membership, its present and incoming leaders for many more prosperous years to come.

## THE NATIONAL HISTORIC PRESERVATION ACT

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SOUDER. Mr. Speaker, today, I am introducing the National Historic Preservation Act, which would establish a national historic light station preservation program. It has been introduced in the other body by the chairman of the Energy and Natural Resources Committee, Senator FRANK MURKOWSKI of Alaska.

As you may know, Mr. Speaker, lighthouses have served as lifesaving navigational aids since before the turn of the century. However, many of these lighthouses have outlived their use to the Coast Guard as navigational aids. Thus, the Coast Guard is left with surplus lighthouses, and declares them excessed. The question then becomes, who cares for these lighthouses once they leave the Coast Guard's hands? If the land on which a particular lighthouse in question was first granted by a Presidential Order to the U.S. Lighthouse Establishment, it is considered to be public domain, and has to be first offered through the Bureau of Land Management [BLM] to the Interior Department. If the Interior Department does not claim the land, then the lighthouse is placed in the General Service Administration's [GSA] excessing process. If the property is not considered public domain, then the lighthouse is placed directly into the GSA excessing process.

Through the GSA process, priority is first granted to Federal agencies. This means that the lighthouse could be used for such things as an office for the Internal Revenue Service. If no Federal agency claims it, the property is then surveyed to see if it is suitable to qualify under the McKinney Homeless Assistance Act, thereby allowing it to be transferred to those organizations that assist the homeless. Should neither of these categories claim the lighthouse, it is then offered to the State in which it is located, possibly to be used for recreation purposes. If the State does not claim it, then it is offered to the local government where the property is located. Finally, if the lighthouse is still available at the end of the GSA process, it is put up for public sale.

The real tragedy here, Mr. Speaker, is that many of these lighthouses have been protected and preserved over the years by nonprofit historical lighthouse societies, who have donated a great deal of time, money, and resources to lighthouse preservation. As you can see, in order to have the lighthouses conveyed to them, they must wait through the long process described above, and then must bid on them. This process basically requires these nonprofit organizations to compete financially with private groups that have greater access to funds, and that have, in many cases not made the same commitment to the lighthouse in the past. In addition, these private groups may have plans for the lighthouse that are inconsistent with the best interests of the community. Though these nonprofit groups can, in some specific cases, purchase the lighthouse directly from the BLM, they must pay half of its market value—a value that those particular groups helped to increase over the years through their hard work. Thus, the message we are sending here is that if you're going to provide a public service by preserving historical sites, you're going to have to pay for them in the end.

I should point out that another method for conveyance is for Congress to enact separate pieces of legislation to transfer a lighthouse to a specific group. As we know, this process can be very time consuming and cumbersome considering that there are hundreds of lighthouses that will be excessed in the near future.

My legislation would introduce fairness into the conveyance process for historic lighthouses by amending the National Historic Preservation Act to transfer this process to the National Parks Service, which would be able to work in conjunction with the State Historic Preservation Officer, to establish a national historical light station program. This new program would give priority to those Government agencies that have entered into a partnership agreement with a nonprofit organization whose primary mission is historical preservation of lighthouses, and would convey them at no cost. If no such applications are offered, or approved of, then the lighthouse would be put up for public sale. Thus, this legislation would help to ensure that in those cases where a nonprofit group has been active in a particular lighthouse's preservation, and wishes to continue in it's work, that that group would be given a fair shot at claiming lighthouses when the Coast Guard excesses them.

Mr. Speaker, we need to recognize the very important role lighthouses have played in this country's history. By encouraging Government agencies to join with nonprofit groups to help preserve lighthouses for the future, we will be providing a much fairer process to those who wish to continue their work in preserving these nationally historic structures.

## HONORING MAYOR RAY BLEDSOE

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to rise today to pay tribute to Mayor Ray Bledsoe of Howe, TX, who last month received the national Hometown Leadership Award, given by the National Association of Small Cities. Only 300 officials in the country received this award, and I am so pleased that my good friend and outstanding civic leader, Ray Bledsoe, is one of those.

Ray is always at the center of community service in Howe. He has served Howe as mayor for the past 11 years. He has spearheaded economic development and was instrumental in obtaining a connector road from Highway 11 and U.S. Highway 75. He helped put together funds for a new community center and coordinated a joint effort between the city and school district to build two new baseball parks. He is the president of the Grayson County Fair, serves on a half-dozen boards, and works about 60 hours a week taking care of the city of Howe's business—all without pay.

Ray not only provides leadership and guidance for the citizens of Howe but also provides hands-on service. Last month, as reported by the Herald Democrat. he was at the Grayson County Fair unfolding chairs, moving extension cords, and setting up booths. Earlier he built a fence around a statue of Judge Jake Loy, then got on his hands and knees and landscaped around it. Ray is willing to help with any task—no matter how large or small—and he is respected and beloved by the citizens of Howe.

Mr. Speaker, in the small towns and cities of America, the mayor plays an indispensable role in the functioning of the community. Often, as in Howe, this is an unpaid position. Too often the mayor receives far more complaints than thanks. So as we adjourn today, Mr. Speaker, I would like to take this opportunity to recognize an outstanding civic leader of Howe and an outstanding American—Mayor Ray Bledsoe—and to thank him for a job well done.

## PERSONAL EXPLANATION

### HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. FORBES. Mr. Speaker, on Thursday, November 6, 1997, I appreciated being granted an excused absence for part of the day. Due to that absence, I missed several rollcall votes.

Had I not been absent for part of the day on June 6, I would have voted in the following manner:

''No'' on rollcall No. 585—Motion to adjourn;

''No'' on rollcall No. 586—Motion to adjourn;

''No'' on rollcall No. 587—Ordering the previous question on H. Res 305;

''Yes'' on rollcall No. 588—Motion to table the motion to reconsider the vote on the previous question;

''Yes'' on rollcall No. 589—Agreeing to H. Res 305, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes;

''Yes'' on rollcall No. 590—Motion to table the motion to reconsider H. Res 305;

''No'' on rollcall No. 591—Motion to adjourn;

''Yes'' on rollcall No. 592—Agreeing to H. Res 188, urging the executive branch to take action regarding the acquisition by Iran of C–802 cruise missiles;

''Yes'' on rollcall No. 593—Motion to table the motion to reconsider H. Res 188;

''No'' on rollcall No. 594—Motion to adjourn;

''Yes'' on rollcall No. 595—On passage of H.R. 967 to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States;

''Yes'' on rollcall No. 596—Motion to table the motion to reconsider;

''No'' on rollcall No. 597—Motion to adjourn.

## CONFERENCE REPORT ON H.R. 2264, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I am pleased to support the fiscal year 2000 $300 million advance funding level for the Corporation for Public Broadcasting contained in this bill. That is a $50 million increase over the comparable appropriation for fiscal year 1999, an amount which only partially offsets the three consecutive years of rescission of public broadcasting funds. The American public has sent a clear message to Congress that it supports a public broadcasting system.

The House appropriations report concerning CPB funding specifically supports the commitment made by CPB in 1994 to formalize partnerships among the organizations of the National Minority Public Broadcasting Consortia, television stations, and other public broadcasting organizations to maximize resources to increase the amount of multicultural programming on public television. That 1994 agreement was over a year in the making, but unfortunately, it has never received any funding.

I trust that the $50 million increase will make it possible to fund the Principles of Partnership Initiative, and would encourage CPB to see if they can find fiscal year 1998 and fiscal year 1999 funds to get this initiative of collaboration underway.

The Minority Consortia organizations—Pacific Islanders in Communications, National Black Programming Consortium, National Latino Communications Center, National Asian American Telecommunications Association, Native American Public Telecommunications—have provided public broadcasting's program schedule hundreds of hours of programming addressing the cultural, social, and economic issues of the country's racial and ethnic communities. Additionally, each consortium has been engaged in cultivating ongoing relationships with the independent minority producers community by providing program funding, programming support, and distribution assistance. They also provide numerous hours of programming to individual public television and radio stations.

I would like to point out that the newest consortia member, Pacific Islanders in Communications, is headquartered in Hawaii and has already had major responsibility for several award winning public broadcast productions, notably Storytellers of the Pacific which was coproduced with Native American Public Telecommunications, and And Then There Were None.

I look forward to an increasingly productive partnership between public broadcasting and the National Minority Public Broadcasting organizations and the communities they represent.

## A PROGRESS REPORT ON THE LOAN CONSOLIDATION PROGRAM

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, I rise to report on the progress of the Department of Education's loan consolidation program. Because of the solid efforts of the Department and EDS, the program is on track to complete all the pending consolidation applications and to resume accepting new applications by December 1, 1997.

As of September 15, 1997, EDS had received 142,856 consolidation applications. Of that number, 84,078 were still pending. In less than 2 months, the outstanding inventory has been reduced by 81 percent; only 15,607 applications are still pending. As a result, the number of completed consolidations has increased by 64 percent since mid-September.

These updated figures show that the loan consolidation problems no longer exist. The Department's loan consolidation program streamlines the borrowing process, reduces financial costs, and improves access to education for students and their families. The Department and EDS are to be commended for their swift response to the situation and for putting this important program back on track.

## HELPING EMPOWER LOW-INCOME PARENTS [HELP] SCHOLARSHIPS AMENDMENTS OF 1997

SPEECH OF

### HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 4, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to oppose H.R. 2746, the HELP Scholarships Program. I am a strong advocate for public schools and I believe we must work to ensure that all children, regardless of race, religion, income, or social status, have an opportunity to receive the best education possible in our public schools. We should not jeopardize that opportunity with an ill-conceived plan to provide tax dollars to private schools.

If we are to improve public education in this country, we must take positive steps. I believe the principles outlined in the Democratic plan provide the foundation for those steps. We have focused on six goals: First, early childhood development—basics by age six; second, well-trained teachers; third, relief for crumbling and overcrowded schools, and well-equipped classrooms; fourth, support for local plans to renew neighborhood public schools; fifth, efficient and coordinated use of resources; and sixth, parental choices for public schools.

These goals seem to be simple common sense. They provide the basis for a quality, public education for all students. If we, as Members of Congress, unite behind these goals, we can make great strides in our quest to improve public education. In our great country, everyone is guaranteed the right to a free, public education. It is our duty to ensure that a public education is consistently a quality education.

The increasing competitiveness of our global economy requires that our young people be better educated than ever before in our history. Our schools must provide adequate training in the basic skills needed to succeed in the current and future job market. We must ensure that all of our students have access to an education that prepares them to survive in a global economy. The Democratic plan places us firmly on that path.

Unfortunately, the bill we are considering today will help only a few children fortunate enough to meet the criteria to attend private schools. This bill provides no real choice to students or parents. It does nothing for the vast majority of the nation's students. Only a few lucky students could take advantage of the program given the low funding level for the title VI program under which the vouchers would be provided.

The Republican plan might provide more opportunity to a few select lower income students, but what about the rest? What about the students that private schools don't want? We cannot require private schools to admit all students. This bill affords no civil rights protections to the students in the voucher program. Schools accepting vouchers do not have to accept children who need high-cost education because they are disabled, have limited English proficiency, or are homeless. When we provide public funds to these schools, we resurrect the misguided concept of ''separate but equal.''

In addition to the problems presented by diverting public money into private schools, I believe it is important to point out that it is a clear violation of the first amendment doctrine of separation of church and state to provide public money to private, religious schools. This bill explicitly permits Federal funds to be used for sectarian activities. Such provisions are clearly contrary to the provision of the first amendment prohibiting the establishment of religion. The Supreme Court has consistently held that tax dollars cannot pay, directly or indirectly, for religious education or the religious mission of parochial schools. If we adopt this

voucher program, it will certainly face a court challenge that it could not withstand.

Nowhere in the United States has there been a successful voucher plan. In fact, most states, including my own State of Texas, have rejected vouchers at every turn. The States understand that our public schools cannot and will not survive if we enact such a proposal. To the contrary, they will wither on the vine.

Mr. Speaker, I strongly support local control and I am not at this point willing to reject all voucher proposals out of hand. But many of our local governments have spoken and the result has been a resounding ''no''. Until a voucher plan is successful at the local level, we in Congress should not impose our will on individual school districts and force them to lose any of their much needed public funding.

Mr. Speaker, now is not the time for experimentation. Now is the time to fight for our public schools, to fight for a quality education for all children, to fight for state-of-the-art equipment in the classroom. I urge my colleagues to oppose this harmful legislation.

## IN HONOR OF MARTIN LUTHER KING, JR.

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GILMAN. Mr. Speaker, by the time our Congress reconvenes in January, Americans will have commemorated the national holiday which honors one of our greatest patriots and moral leaders, the Rev. Dr. Martin Luther King, Jr.

A few months later, on April 4, 1998, will fall the 30th anniversary of that dark day in American history when Reverend King was taken from us prematurely, at far too young an age, in one of the most heartless, senseless, and destructive crimes ever. For as long as civilization exists on this planet, scholars will debate how much greater an impact Dr. King would have had on our society had he been allowed to live and to continue his contributions.

Although the life of Martin Luther King was tragically cut short, his message is eternal and will long outlive all of us here today. The simple truth that Dr. King worked so hard to make us all realize is that hatred actually harms the hater more than the hated. The evils of racial injustice, which were a blot on the record of our country for far too long, harmed our economy, the morals, and the advancement of white America just as much as it did Black America. The terrible legacy of Jim Crowism and continued racial discrimination which plagued us for well after a hundred years of the Emancipation proclamation harmed us all, for they not only prevented all Americans from enjoying the full benefits of our society, they also prevented us all from reaping the benefits of the contributions all Americans are capable of making.

In today's world, as we stand on the threshold of the 21st century, many of Martin Luther King's achievements are all around us. More Afro-Americans hold elective office in the United States today, at all levels of government, than even the most optimistic person could have predicted in 1968. Afro-Americans have entered every field of our national lives and have seared themselves into our national consciousness. How much sadder and less enlightened all of our lives would be had we not had the works of Nobel Literature Prize winner Toni Morrison, the television entertainment of Bill Cosby, the athletic prowess of Michael Jordon, Magic Johnson, and so many others, and the millions of other black men and women who contribute to our society but would not have been able to do so had it not been for the desegregation work of Dr. Martin Luther King.

By no means should the celebration of Martin Luther King Day be taken as a celebration that we have achieved all we can. In fact, the legacy of racial division and hatred continues to plague us today, in many ways, day after day. I have personally been appalled to hear radio entertainers, those so called ''shock jocks'', who seem to believe it is both funny and entertaining to perpetuate racial stereotypes and verbal bigotries that most of us though we outgrew as a people some 40 years ago. It seems as if all too often we hear of the desecration of a Black church, the beating of a Black young person, and other acts of racial hatred that Dr. King devoted his life to wipe out. No American can truly be satisfied until after all of the barriers of prejudice in our society are removed.

Let us be inspired by the words of Dr. King, who stated: ''If you can't fly, run. If you can't walk, crawl. By all means, keep on moving.''

Martin Luther King Day is an appropriate time for all Americans to pause and remember that we must continue to move, until the day when all of us are afforded full opportunity, and that none of us have to be concerned that race, color, creed, or ethnic heritage are a hindrance to any individual, or to our Nation as a whole.

Let us free ourselves from hatred, as Dr. King urged, so that we can share the dream he so eloquently shared in August of 1963—a dream that ''some day the descendants of slaves and the descendants of slave holders can sit down and join hands together at the table of brotherhood and proclaim: Free at last, free at last. Thank God almighty, we're free at last.''

## CONGRATULATIONS DONALD DALLAS

### HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, those who earn recognition for community service are very special people. They have made efforts to give back to their communities to make them even better places, and have often thought of their neighbors ahead of their own interests. Next week the Knights of Columbus Holy Trinity Assembly 2013 will be honoring Donald Dallas for his civic activity with a humanitarian outlook.

Don Dallas has been a resident of Arbela township for 28 years. A graduate of Century College as a physical therapist, he also has training from the School of Aviation Medicine from Air University, U.S. Air Force. He also attended Blackstone School of Law, where he studied as a paralegal.

Currently a licensed private investigator and court officer, Don Dallas is a member of the Michigan Court Officers Association, the Michigan Council of Private Investigators, the U.S. Process Servers Association, and the Association of Trial Lawyers of America.

He is known throughout the community for his activity with the Tuscola County Planning Commission, the Red Cross Disaster Relief Volunteers, the County Democratic Club, and Habitat for Humanity.

Don's personal successes have been amply aided by his impressive family. His wife, Kathy, is a graduate of Central Michigan University and a registered nurse. Their daughter, Terri Dallas-Prunskis, is a medical doctor specializing in pain management and an associate professor at the University of Chicago Medical School. Their son, Ronald, is a graduate of Andrews University as a mechanical engineer.

Dan Dallas is one of the recipients of this year's awards for community service, in memory of Father William Cunningham, a priest who could only reach for tomorrow's challenge while completing today's accomplishment. Father Cunningham's family resides within my district, and he has served as an inspiration to literally thousands of men and women of all ages and backgrounds as the co-founder and executive director of Focus: HOPE in Detroit.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating Don Dallas on this impressive award, and in wishing him the very best for the future.

## THE CONTINUING LEGACY OF THE LEWIS AND CLARK EXPEDITION

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the November 4, 1997, *Omaha World-Herald.* The editorial highlights the growing interest in the Lewis and Clark Expedition and the upcoming bicentennial celebrations to commemorate the bold and courageous journey. As someone who has had a longstanding interest in the Lewis and Clark Expedition, this Member is pleased to promote the bicentennial efforts through the introduction earlier this year of two pieces of legislation. H.R. 1560 authorizes the U.S. Mint to produce a commemorative coin honoring the Expedition. Proceeds from the sale of the coins will be used to fund the activities of the National Lewis and Clark Bicentennial Council and the National Park Service.

This Member has also introduced House Resolution 144, a resolution to express support for the Bicentennial of the Lewis and Clark Expedition. This resolution highlights the importance of the expedition and expresses congressional support for the commemorative activities of the National Lewis and Clark Bicentennial Council as well as Federal, state and local entities and other interested groups.

We must continue to recognize the ongoing legacy of the Lewis and Clark Expedition. The upcoming bicentennial activities will provide excellent opportunities to stress the importance of the journey's mission and discoveries.

[From the World-Herald, Nov. 4, 1997]

LEARNING MORE ABOUT A MIDLANDS JOURNEY

Lewis and Clark's great journey of discovery is beginning to draw attention as the bicentennial of the 1804 event draws closer.

A two-part documentary by Ken Burns is set to air tonight and Wednesday on Public Broadcasting System stations in the Midlands. Burns' effort follows a popular book by historian Stephen Ambrose, whose ''Undaunted Courage'' described the trip in detail. The book relied on historical records, letters and memoirs, as well as journals of the expedition written by Meriwether Lewis, William Clark and other members of the party. More than 800,000 copies have been sold.

The expedition was commissioned by President Thomas Jefferson to explore the newly purchased Louisiana Territory. Jefferson ordered Lewis to follow the Missouri River as far as he could, then keep going beyond U.S. territory in an attempt to find a convenient water route to the Pacific.

There is no fast and easy route by water. But the explorations of Lewis and Clark succeeded in another way. They opened the continent to further settlement, identified scores of new plants and animals and launched tentative but cordial relationships with Indian tribes.

Current signs of interest include a 10 percent increase of visitors at Fort Clatsop near Astoria, Ore., where the explorers wintered. Membership in the Lewis and Clark Trail Heritage Foundation has risen. A flood of books on the subject is about to hit the stores.

Archeological digs are proceeding at Fort Clatsop, at Fort Mandan, another wintering site in North Dakota, and at the Great Falls of the Missouri. The first major archeological survey of sites on the trail began recently.

Lewis and Clark sites throughout the West and Midwest are gearing up for tourists as the bicentennial approaches. New Park Service interpretative centers in North Dakota and Montana will aid visitors.

In the Midlands, the Western Historic Trails Center in Council Bluffs, which presents information on the Lewis and Clark expedition and trails that went through the region, is ready for visitors. A new observation deck was constructed at Ponca State Park, overlooking part of the expedition's route. It is one of 10 markers being constructed in Nebraska to emphasize the highlights of the voyage. A Lewis and Clark national Historical Trail Interpretative Center is planned at Nebraska City.

Commemorations in Sioux City will revolve around the riverboat at the Sgt. Floyd Museum and Welcome Center. Floyd, a well-liked leader, was the only member of the party who didn't survive the trip.

The Lewis and Clark voyage of exploration was a major event in the life of the infant nation. The courage of the two leaders and their men was exceptional. The intellectual curiosity and scientific observational skills of Lewis were astounding. The party's combination of luck, pluck and ability has few equals. It's appropriate that the public is taking an interest in their story.

Though many Members of Congress seem to be having a difficult time making up their minds whether ''fast-track'' is in the national interest, the sensible Lincoln Journal Star newspaper in Lincoln, NE correctly acknowledges that the logic behind ''fast-track'' ''[i]s a simple numbers game.'' This editorial properly recognizes that 96 percent of the world's consumers live outside of the United States, and we ignore them to our own detriment. Maybe a reading of the attached editorial will inject some fresh Midwestern air into the protectionist fog hanging over the District of Columbia and the Capitol. It's certainly worth a try.

[From the Lincoln Journal Star, Nov. 7, 1997]

PRESIDENT'S FAST-TRACK AUTHORITY IS NEEDED IN A GLOBAL ECONOMY

(Unsigned editorials are the opinion of the Lincoln Journal Star)

It's a bit surprising that a question exists on whether President Clinton should be granted fast-track authority in trade negotiations. Every president since Gerald Ford has had the power. In fact, fast-track authority had never lapsed until it expired on Sept. 30.

But Democrats are finding it difficult to support Clinton on the issue because of the vigorous opposition of organized labor, which has paid for radio and television advertising, organized phone calls to congressional offices and threatened to withhold campaign funding.

In Congress, trade protectionists led by Rep. Richard Gephardt, D-Mo., have been joined by Republicans, who hate to see Clinton win anything, to create a cliffhanger. Analysts predict a close vote in the House. In the Senate, where there is more support for fast-track powers, opponents have succeeded in delaying action.

The concept of fast-track authority is easily described. It gives the president the authority to negotiate trade agreements, which Congress then can reject but cannot amend. Without such authority, any member of Congress might want to change this line or that of any trade agreement sent to it for approval. If that were the case, it's doubtful that any country would negotiate with the United States.

At this point in history, there is overwhelming evidence that free trade benefits the United States. It's a simple numbers game. The United States has 4 percent of the world's consumers. The rest live in countries where the economies often are expected to grow at rates that will exceed those in developed countries like the United States. Many Latin American countries, for example, are expected to have annual growth rates of as much as 5 or 10 percent. If the United States wants to maintain or increase its wealth, it needs to sell to those consumers.

International trade is already of major importance to the national economy. There has been a 35 percent increase in American exports since 1992. In 1996, U.S. exports of goods and services reached a record $836 billion, employing 16.7 million workers.

The most persuasive argument against free trade is that it can mean that industries gravitate to nations that will permit them to degrade the environment, or use child and prison labor. Under the proposed fast-track legislation, however, Clinton has the authority to negotiate agreements that protect against those outcomes.

In the end, the issue of free trade reaches basic questions of economic freedom. The United States has led the world in open markets, free enterprise and competition. Everywhere, nations are adopting those values. Since the end of World War II, global tariffs have dropped from an average of 40 percent to 5 percent.

For the United States to continue to play an important leadership role in the global economy, Congress needs to restore fast-track authority to the president.

## LEGISLATION TO PROMOTE FAIR FRANCHISING

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. LAFALCE. Mr. Speaker, I am today introducing legislation to address serious problems in the promotion and sale of franchise businesses and in the conduct of franchise business relationships. The legislation incorporates key proposals from bills I introduced in prior Congresses.

In the past two decades franchising has changed the way Americans do business and the way we purchase goods and services. In large and small communities in my district and across the Nation the growing majority of businesses are either franchises or licensed outlets of national companies or retail chains. Franchising has been a significant factor driving both the expansion of our service economy and the growth of our small business sector.

Thousands of American families invest in franchises each year in the hope of realizing dreams of business ownership and economic independence. Unfortunately, too many of these dreams are shattered by franchise promoters who never fulfill promises to help build successful businesses. Rather than owning their own business, many franchisees find they have merely purchased below-minimum wage jobs that have neither the benefits or protections available to employees nor the legal rights and remedies of business ownership. For many franchisees, dreams of business ownership often turn into legal and financial nightmares.

These problems stem, in large part, from the fact that Federal and State law hve failed to keep pace with the rapid development of franchising and offer franchisees little, if any, viable legal recourse against fraudulent and abusive conduct by franchisors. We have no Federal laws governing the sale or operation of franchise businesses and the only regulatory procedure at the Federal level, the Federal Trade Commission's franchise disclosure rule, is outdated and inadequately enforced. Only a handful of States have laws or regulations governing franchise sales and practices, and most of these now defer to the Federal Government for enforcement.

These problems are compounded by the fact that franchise contracts are written by franchisors to preempt every legal remedy available to franchisees. As a former chairman of the American Bar Association's Franchise Forum told the Small Business Committee several years ago, indemnification provisions in franchise contracts are drafted so broadly as to protect franchisors even for the franchisor's gross negligence, wanton recklessness and intentional misconduct.

Procedural devices also are routinely employed in franchise contracts to bar legal actions, to deny coverage of protections in State laws and to make litigation inconvenient and costly. Even basic principles of common law applicable to all other business relationships—concepts such as good faith, good cause, duty of competence and due care, and fiduciary responsibility—are routinely denied in franchise contracts.

In short, a huge and growing number of American business owners are routinely required to forego their basic rights and legal remedies just because they choose to become franchisees.

The bill I am introducing today, the Federal Fair Franchise Practices Act, addresses these problems and does so not by increasing Government regulation, but by enhancing private remedies that permit individual franchisees to protect their legitimate financial interests in a court of law.

My bill would promote greater fairness and equity in franchise relationships by establishing minimal standards of conduct for franchise practices, by prohibiting the most abusive acts by franchisors, by clarifying the legal rights of franchise owners, and by nullifying procedural devices intended to block available legal remedies.

In addition, the bill incorporates basic prohibitions against fraud, misrepresentation and discrimination elsewhere in Federal law and applies them to franchise sales and business practices. It protects the right of franchisees to organize franchisee trade associations and to engage in collective legal action to protect their financial interests. And it provides a private right of actions for violations of Federal franchise disclosure requirements—something the FTC has requested for 18 years.

Mr. Speaker, franchising has undergone tremendous growth in the past two decades and now dominates our nation's retail and services sectors. But Federal law and regulation have failed to keep pace. Federal guidelines intended to protect the public from false or misleading franchise promotions are sadly out of date and only marginally enforced. Legal rights and standards taken for granted in other business relationships continue to be debated and denied in franchising arrangements.

It is time Congress acted to provide basic protections in Federal law to discourage fraudulent and abusive franchising practices and to help strengthen the American dream of small business ownership. I believe the proposals I am introducing could constitute landmark legislation. In much the same way that the Wagner Act helped revolutionize labor-management relations in the industrial economy of the 1930's this legislation can help restore fairness and balance in the growing franchising sector of the services-based economy of the 1990's.

I recommend this legislation to the consideration of my colleagues and I urge its adoption by the Congress.

## TRIBUTE TO BILL AND DALE BELCHER

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GALLEGLY. Mr. Speaker, I would like to recognize Bill and Dale Belcher on being chosen as Golden Condor Award winners for their many years of outstanding service to their community and Scouting.

Their work with the Scouts has spanned decades and has had a tremendous impact on the many young people they have worked with over the years. Their sense of community extends far beyond the boundaries of Scouting. For some, that would be enough public service, but not for Bill and Dale. Each of them has dedicated their life to a variety of service organizations. Both Bill and Dale have been very involved in their church and served as executives with United Way.

Dale is active with Soroptimist International, Oxnard Women's Club, and a host of other organizations. Bill is a 20-year veteran of the U.S. Navy, and a longtime member of the Rotary Club, just to name a few.

Mr. Speaker, Bill and Dale Belcher stand as shining examples of the difference two people can make in the lives of many. I would like to extend my sincere congratulations to Dale and Bill on having been chosen as Golden Condor Award winners and thank them for their work in our community.

## ROUGH DRAFT OF LEGISLATION TO IMPROVE QUALITY OF CARE IN NATION'S DIALYSIS CENTERS

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. STARK. Mr. Speaker, I am today including in the CONGRESSIONAL RECORD the rough draft of a bill which represents several years of hard work within the kidney disease community on how to improve the quality of care for our Nation's nearly 250,000 kidney disease patients.

I am asking that the bill be printed in the RECORD in the closing hours of this session of the 105th Congress, so that interested parties can study the proposal over the next several months and offer suggestions and changes. I will be working on the bill over the coming months to develop a consensus on this effort to improve the quality of life of the Nation's kidney disease patients, and I hope to introduce it formally, with appropriate changes, when the second session meets in January.

Basically, the draft bill would create a continuous quality improvement [CQI] program that requires all providers treating end-stage renal disease patients under Medicare to provide data on the outcomes and quality of life of their patients, and to seek to improve that quality.

Those who achieve outstanding quality outcomes will be recognized for their special contributions. Those who fail to meet agreed-upon quality standards will be counseled and worked with to improve. Patients in most communities where there is more than one dialysis provider will be empowered to switch to centers which provide the better outcomes and quality. All the care givers, including the doctors, will be part of the new effort of measurement and improvement.

The result should be improved mortality and morbidity rates, improved energy levels, improved rates of return to work, and of transplantation.

Mr. Speaker, for over 23 years Medicare has been paying for the catastrophic expenses of treating end-stage renal disease, through three times a week life-giving dialysis, through transplantation, and through all the extra hospitalizations, tests, and pharmaceuticals needed by these citizens. The cost per patient per year is, counting everything, estimated between $50,000 and $60,000.

The program has been a tremendous success. It has saved enormous numbers of lives and in many cases provided a good quality of life for decades in which people have continued to contribute to their communities and loved ones.

Yet, after 23 years experience, we can and should do better. There are enormous differences between dialysis centers. After adjusting for every imaginable factor, scholars continue to find that some dialysis centers have death rates much higher than the average. To be blunt, some dialysis centers should be avoided as dangerous to one's health. Some dialysis centers seldom or never refer patients—on whom they make some money—to transplantation so that they will never again need dialysis. Some centers' patients spend many more days per year in the hospital than the ''best practice'' centers. Some centers are able to get their patients back to work; in others, a lifetime of disability and welfare becomes the norm. And as the GAO reported to Congress on September 26, the number of appropriate lab tests given to ESRD patients vary enormously among centers, raising questions of quality and of fraud and abuse.

With Medicare—not total—expenditures on ESRD patients likely to be about $9 billion in the coming year, we need to do better. We need to reduce the hospitalization rates and the unexplained death rates. We need to increase the opportunities for transplantation and for the return to work and a full range of normal activities. The draft bill would—I believe—help patients and providers work together to achieve these goals.

Finally, managed care has become a fact of life for most Americans, but most ESRD patients are not in managed care. Indeed, currently there is a prohibition on patients who reach ESRD status joining a managed care plan—although a person already in a managed care plan who reaches ESRD can stay in his or her plan. The fear has been that a managed care company could so cut access to services and quality care for these very vulnerable patients that it could lead to greatly increased patient death and illness. Until we have strong quality standards in place and know how to measure ESRD outcomes, it is dangerous to place these patients in systems designed to reduce utilization. The CQI legislation I am introducing will help ensure that for those few ESRD patients in managed care, there is a guarantee of quality. The lessons learned from this legislation will help permit the day when we could confidently entrust this population to disease management programs.

I want to thank all of the rental and patient associations who have been working with HCFA to improve quality and who have been offering suggestions for CQI legislation. In particular, I want to thank the Renal Physicians Association. This draft legislation builds on many of the ideas that are already underway in the renal community and at HCFA, and I believe it is a bill that can achieve consensus support throughout the renal community.

To repeat, I welcome additional suggestions and refinements to this proposal—and hope it is legislation that we can move forward in 1998.

## TO HONOR AMERICA'S VETERANS

### HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. MALONEY. Mr. Speaker, I rise today to honor our Nation's veterans.

When in 1958 President Eisenhower signed the bill proclaiming November 11th Veteran's Day, he called for Americans everywhere to rededicate themselves to the cause of a lasting peace. He proclaimed that day an occasion for honoring all Veterans of all wars, a group that currently includes more than 27 million Americans, over 50,000 of whom reside in

the 5th district of Connecticut which I represent.

The 11th day of the 11th month originally was known as Armistice Day, commemorating the signing of the Armistice ending World War I. The 1958 law changed one word, Armistice to Veterans' day, and created a day for our Nation to honor all it's veterans. Also on Veterans' Day in 1958, two unidentified soldiers, one killed in Korea and one killed in World War II were brought to Arlington Cemetery and interred at the Tomb of the Unknown Soldier.

Although the name of this day has changed, the central purpose has remained consistent, the 11th day of the 11th month remains a day to honor those who have served their country on the battle fields of Europe, Korea, South East Asia, in the Persian Gulf, and in many other locations around the world. But this is not only a day to remember those who did not return. This is also a day to reaffirm our commitment to the men and women who served and returned, and to the sons and daughters, wives and husbands of those who were left behind, whether for a while or forever.

We must commit ourselves to provide our veterans with full access to the best medical care available; we must ensure that the survivors of American veterans always have adequate provision for their needs; and we must commit ourselves to bringing home those soldiers who have not yet returned from the battlefield.

Mr. Speaker, we can never forget the sacrifices our veterans have made so that we may live in peace today. And this, Mr. Speaker, is what President Eisenhower was referring to when he called for Americans everywhere to rededicate themselves to the cause of peace on this, the 11th day of the 11th month. We need to rededicate ourselves to the peace which these brave Americans have fought to secure and defend.

Mr. Speaker, on behalf of the 5th congressional district, the State of Connecticut, and Americans everywhere, I thank the veterans for their service, dedication and loyalty to our country.

## PRESERVING PATIENT ACCESS TO METERED DOSE INHALERS

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SMITH of New Jersey. Mr. Speaker, when most of us think about the Food and Drug Administration [FDA], we envision an agency that works diligently to expand the universe of safe and effective medications. So when I discovered that the FDA was actually proposing to reduce the number of proven medicines available to treat asthma and cystic fibrosis patients, I knew Congress had to act on behalf of patients. As a legislator representing thousands of asthma patients, and as a father of two daughters with asthma, I am appalled that FDA might ban proven medicines patients need to survive.

As a result of these efforts by the FDA, today I am introducing legislation that will preserve access to metered dose inhalers [MDIs] for those patients suffering from respiratory conditions—particularly children suffering from asthma and cystic fibrosis. This bill will ensure that those who rely upon MDI's to breathe, will not be denied access to their lifeline by an overzealous FDA. Joining me in this effort is my good friend Florida, Representative CLIFF STEARNS. Together, Mr. STEARNS—who is the author of H.R. 2221—and I have worked together in an effort to change the FDA's misguided policy.

On March 6, 1997, the FDA initiated the first stage of a plan to phase-out the use of chlorofluorocarbons [CFC's] metered-dose inhalers [MDI's], which are used by asthma and cystic fibrosis patients to breathe. This action was taken ostensibly to protect the ozone layer, despite the fact that less than 1 percent of all ozone-depleting substances in the atmosphere are caused by metered-dose inhalers.

In fact, the amount of CFC's that the EPA allows to be released from automobile air conditioners over 1 year is about the same as 14 years of metered-dose inhaler emissions. If you combined all sources of CFC's allowed by the EPA in 1 year, it would equal 64 years of MDI emissions. And yet the only CFC products targeted for elimination this year are inhalers.

It is also interesting to note that while the FDA and EPA are rushing to eliminate CFC inhalers, they continue to allow the use of a variety of CFC products, including bear-repellent pepper sprays, document preservation sprays, and certain fire extinguishers. This is clearly a case of misplaced priorities—how can historical document sprays be considered more essential than products that protect our children's lives? And while American children and senior citizens will have their treatment regimens disrupted by the FDA's plan, nations like China and Indonesia will be pumping tons of CFC's into the atmosphere from hair sprays and air conditioners until the year 2010.

Not surprisingly, the FDA's plan has generated a firestorm of opposition from patients, respiratory therapists, and physicians: nearly 10,000 letters in opposition have been received to date by the FDA. A coalition of stakeholder organizations reviewed the FDA proposal in May and concluded that the FDA's approach banning therapeutic classes was flawed and must be re-evaluated. The patient and provider organizations also stated that the FDA plan ''has the potential to disrupt therapeutic regimens * * * and limit physician treatment options.''

It is important to institute a transition strategy that will eventually eliminate the use of CFC's. However, the FDA's proposal is deeply flawed and should be scrapped in favor of a plan that puts patients—not international bureaucrats—first.

To ensure that the interests of patients are upheld throughout the formation of our country's MDI transition strategy, this legislation will temporarily suspend the FDA's proposed framework until a new proposal can be crafted. In addition, this bill would require the FDA to consult with patients, physicians, manufacturers of MDI's and other stakeholders prior to issuing any subsequent proposal. In addition, my legislation requires the Secretary of Health and Human Services to certify to Congress that any alternatives to existing MDI's will be available to all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, cost, and retail availability.

Mr. Speaker, this past week we held a press conference in an effort to educate the public and media about the dangers of the FDA's proposal. Participating in this press conference was Tommy Farese, who is 9 years old, and lives in Spring Lake, NJ, and has had asthma since the age of 2. One of the asthma inhalers Tommy uses to breathe—Proventil—would be eliminated under the FDA plan in favor of a non-CFC version that has not been approved by the FDA for use by children. Unless the FDA's proposal is changed, Tommy could lose access to the medicine he needs to breathe and live. Why should Tommy, and 5 million children like him have to face this dilemma?

In my view, any plan to remove safe and effective medications from the marketplace needs to place the interests of children like Tommy Farese first and foremost. Sadly, the FDA plan fails in this regard. Indeed, the FDA plan presumes that CFC-free inhalers serve all patient subpopulations—such as children and the elderly—equally well, despite the fact that children have special needs and many drug therapies are not interchangeable.

Therefore, I call upon the FDA to stop their proposed ban of asthma inhalers. If the FDA insists on moving forward with their antipatient plan, I call upon my colleagues to support and pass the Smith-Stearns bill to allow asthma patients like Tommy Farese retain access to their medicine.

## HONORING PIETRO PARRAVANO, ''HIGHLINER OF THE YEAR''

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Pietro Parravano, who has recently been named the ''Highliner of the Year,'' the Nation's most respected fishing award. Pietro Parravano has devoted his career to the creation of sustainable fisheries and to the betterment of the lives of fisher men and women. He is a dedicated public servant, currently serving on the San Mateo County Harbor Commission, as a member of the Local Fisheries Impact Program, on the California Seafood Council, and as president of the Pacific Coast Federation of Fisherman's Associations. Pietro Parravano has been a goodwill ambassador for the fishing fleet, and will soon travel to New Delhi, India to represent the United States at the World Forum of Fish Harvesters and Fishworkers.

Pietro Parravano is an exceptional man, and I ask that we honor him in the House of Representatives on the eve of this most auspicious occasion.

## COMMUNITY RECREATION AND CONSERVATION ENDOWMENT ACT

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DUNCAN. Mr. Speaker, the land and water conservation fund [LWCF] was established in 1964 to increase recreational opportunities. It does this by using money, collected

mainly from oil and gas leases, to purchase Federal lands and to give matching grants to State and local governments for the development of parks and open spaces. While this fund continues to be used for Federal land purchases, very little money has been given to States to assist their efforts in preserving natural areas.

That is why I have introduced the Community Recreation and Conservation Endowment Act of 1997 today. This bill will provide funding for grants to State and local governments to develop, repair, and create new parks and preserve open spaces.

This bill will create a $1.6 billion permanent endowment to provide LWCF matching grants to local governments. Interest from that account will help provide funding for parks, campgrounds, trails, and recreation facilities for millions of Americans.

Where does this money come from? On June 19, 1997, the Supreme Court ruled that the Federal Government retains title to lands underlying tidal waters off Alaska's North Slope. As a result, the Government will receive $1.6 billion in escrowed oil and gas lease revenues.

When the land and water conservation fund was established the Federal Government promised to assist State and local governments with preserving natural areas. This legislation will make sure that the Federal Government follows through on that promise. In addition, this bill will ensure that each State receives its fair share of these funds by providing a more balanced distribution of this money between the States.

Mr. Speaker, I urge my colleagues to join me in this effort which will help preserve natural areas all across this country.

## TRIBUTE TO EDDIE ROBINSON

### HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. COOKSEY. Mr. Speaker, we all use the term ''One of a Kind'' but there are actually few men who are truly one of a kind. But there is a ''One of a Kind Man'' down in Louisiana and he's in my district. His name is Eddie Robinson. Why is he one of a kind? Well, for starters, he has had more than 100 of his players drafted by the National Football League. His school's stadium is named in his honor. No other football coach has ever coached for 54 seasons at the same college. And only one other man ever coached college football for that many years—period. Nobody else has won 17 Southwestern Athletic Conference championships. Nobody else has won so many ''Coach of the Year'' awards that they named the national trophy in his honor. In 1942, his Grambling State team held all nine of its opponents scoreless. It was only the second time that had ever been done and it has never been accomplished again. And nobody else has ever won 405 college football games. But the main reason I am here to praise Eddie Robinson today is that not only is he a great football coach but he is a good man. He has always appealed to the best in his players and his fans. He is an example of so many of the good things that we hold dear—loyalty, family, hard work, God, and country. So I want to pay tribute right now to a truly great American and a man who is truly one of a kind—Coach Eddie Robinson of Grambling State University.

## BUDGET SURPLUSES BELONG TO WORKING AMERICANS

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DREIER. Mr. Speaker, by the end of this fiscal year, the Federal Government could run its first budget surplus in nearly three decades. This is certainly good news. For the past 30 years, deficit spending caused interest rates to be higher than they would otherwise have been, which in turn suppressed economic growth and reduced the living standards of American families. If not managed correctly, however, I am concerned that short-term budget surpluses could actually undermine the progress that Congress has made in recent years in controlling the growth of Government spending and reducing Government interference in the economy.

With Government revenues still growing faster than the rate of economic growth, and without the economic and political consequences of having to raise taxes or expand the Federal debt to pay for new spending, continued efforts to restrain the growth of Government in the face of a budget surplus will likely crumble. Already, there is pressure to spend unrealized surpluses on Washington-run programs that are no accountable for results. That's exactly what happened in the late-1960's and 1970's, when inflation-driven growth created a surge in tax revenues, which increased the Government's appetite for new spending, which in turn led to the deficits of the 1980's and early 1990's.

To deal with this potential problem, two of our Republican colleagues have proposed setting up trust funds to apply projected budget surpluses to debt reduction and tax cuts. These are certainly important priorities. According to a recent Gallop poll, 41 percent of Americans want Government surpluses to go to reducing the national debt, while 42 percent prefer tax cuts. But both proposals still require taxpayers to send their hard-earned money to a Washington bureaucracy that doesn't need it, and the distribution of those funds would be based on political incentives rather than economic incentives.

Today, my colleague from Louisiana Representative WILLIAM JEFFERSON, and I have introduced the first bipartisan bill which attempts to address the concerns about budgetary choices that Congress may make in an era of budget surplus. H.R. 2933, the Working Americans Gainful Employment [WAGE] Act, creates a permanent mechanism to impose consequences on Congress for any effort to spend a Federal surplus. It requires the Secretary of the Treasury to reduce the Social Security payroll tax rate prior to each calendar year by an amount equal to the Federal budget surplus for the fiscal year ending during the preceding calendar year. It defines ''federal budget surplus'' as the amount by which total Federal revenues exceed total Federal budget outlays—unified budget. It also stipulates that any reductions in Social Security payroll tax rates do not affect revenues that would otherwise be deposited into the trust fund.

The WAGE Act will provide desperately needed relief from a regressive tax on employment. Federal payroll taxes, paid in equal parts by employers and employees, are currently assessed at a rate of 15.3 percent of payroll beginning at the first dollar of an employee's earnings. These taxes, while necessary to finance Social Security and Medicare hospital benefits, impose a tremendous financial burden on working Americans, particularly low- and moderate-income workers. Counting the employer portion of these taxes, which are indirectly borne by employees in the form of lower wages and benefits, approximately 75 percent of American workers pay more in Federal payroll taxes than in Federal income taxes.

The WAGE Act will also promote economic growth through tax rate cuts. Although the payroll tax rate reductions would not be permanent—unless the budget surpluses are permanent—businesses will know in advance what the rate will be for the coming year, and will plan investment and hiring decisions accordingly. Since payroll taxes paid by employers result in reduced employee compensation, any long-term reduction will be funneled back into higher wages and additional jobs. A payroll tax rate reduction will also encourage more small business start-ups because such firms must pay payroll taxes even if a profit is not made.

Payroll tax rate reductions would come from after-the-fact surpluses, not estimated surpluses. The WAGE Act, therefore, would not undermine future efforts to allocate projected budget surpluses to other important priorities, such as tax reform or entitlement reform. If Congress enacts legislation allocating future estimated surplus for other priorities, there is likely to be little if any after-the-fact surplus to apply to payroll tax rate reductions. This is the key incentive that is missing from those proposals which seek to wall off future surpluses for reducing taxes of the Federal debt. The WAGE Act creates a benchmark by which other proposals to allocate future surpluses will be measured. If Congress attempts to apply projected surpluses to new spending or to tax cut efforts, those efforts would come at the expense of a payroll tax cut for working Americans.

And for those who are concerned that payroll tax cuts could undermine revenues flowing into the Social Security trust fund, the WAGE Act explicitly states that deposits into the trust fund will continue to be based on the current statutory rate of 12.4 percent of wages. In other words, the Social Security and Medicare trust funds will be totally unaffected by this legislation.

Mr. Speaker, dedicating future budget surpluses to Federal payroll tax cuts will lock in fiscal restraint while providing dividends to low- and middle-income workers who pay the bulk of those taxes. Our legislation accomplishes both of these objectives in a bipartisan way, and I urge my colleagues to join us as cosponsors of this bill.

## RECOGNIZING DAN BLEDSOE

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HUNTER. Mr. Speaker, I rise today to recognize the extraordinary service and dedication of a constituent in my district, Mr. Dan Bledsoe. Dan is a great American who has spent many years of his life defending and honoring our country with selfless service and dedication.

In 1948, Dan enlisted in the Marine Corps Reserve until 1950 when the Korean war began and his unit was called into active duty. Assigned as a scout-sniper, Dan served in several military campaigns during the war, including battles at Inchon, Seoul, and the Reservoir Campaign where 120,000 Chinese Communist troops surrounded an 18,000 U.N. troop location in North Korea. After serving his final campaign in central Korea, Dan left the Marine Corps, being promoted to Sergeant and receiving six battle decorations for his service and outstanding performance.

Dan went on to enroll in the University of San Francisco and, after graduating with a bachelor of science degree in 1955, he entered the Federal Bureau of Investigation [FBI] Academy. Dan went on to serve 25 years as a special agent with the FBI working all across the country and receiving 33 awards that stemmed from successful investigations that resulted not only with the recovery of valuable property and millions of dollars, but lives being saved as well. During this time, Dan also found the time to graduate from Pepperdine University with a master in arts degree in management.

Dan retired from the FBI in 1980 and went to work in the private sector where he continued to serve his community as a member of the Los Angeles Olympic Organizing Committee and then marketing director for the Public Safety Training Association in San Diego until 1989. Married for 42 years and father of two children, Dan currently works as a management consultant and remains active as a member of several athletic and social clubs.

Mr. Speaker, Dan is a symbol of commitment and dedication to his fellow citizens and community. He has pledged a great share of his life to the service of others and as a distinguished soldier, law enforcement officer, and businessman, he was provided his peers with a great example of what it means to be an American. Today, let us congratulate and thank Dan for his unwavering contributions, he is well deserving and I wish him great happiness in his future endeavors.

## TAX REFORM

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. WELLER. Mr. Speaker, earlier this week, we passed legislation to restructure and reform the IRS. One of the things that this bill would accomplish is the establishment of an Internal Revenue Service oversight board. If any of my colleagues are wondering why we need more oversight of the IRS, I would invite them to review the statement I am enclosing in the CONGRESSIONAL RECORD today.

The statement, entitled ''If You Don't Have Two Motors, You Can't Have Your Money,'' was recently posted on the INCONGRESS Web site (www.incongress.com) by Cliff Harvison, president of the National Tank Truck Carriers. It details the plight of small business owners who have been denied a tax credit—established over 40 years ago by the Congress—for fuel used for off-highway purposes. The IRS has essentially disregarded this tax credit for ''administrative convenience.'' In other words, the IRS does not trust the taxpayer to tell the truth and does not want to take the trouble to verify factual information itself, so the IRS simply keeps the taxpayers' money.

My distinguished colleague from Nebraska [Mr. CHRISTENSEN] and I have introduced legislation, H.R. 1056, to remedy this problem and force the IRS to comply with the law Congress passed over 40 years ago. However, we have been told that the IRS opposes it. I would hope that we would, perhaps for administrative convenience ignore the IRS and pass it anyway.

Mr. Speaker, this is perhaps one of the most blatant examples of IRS arrogance that I have seen since becoming a Member of Congress. It is stories like this that so clearly justify the need for more oversight of the IRS.

At this point I would like to insert into the RECORD the document entitled ''If You Don't Have Two Motors, You Can't Have Your Money,'' which was posted on the INCONGRESS Web site by Cliff Harvison, president of the National Tank Truck Carriers. I commend it to all of my colleagues and invite them to join with me in cosponsoring H.R. 1056 to restore the off-highway tax credit and supporting H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997.

IF YOU DON'T HAVE TWO MOTORS, YOU CAN'T HAVE YOUR MONEY BY CLIFF HARVISON, PRESIDENT, NATIONAL TANK TRUCK CARRIERS

''If you don't have two motors on your truck, you can't have your money.'' That's what the IRS has told the tank truck carriers, the waste haulers, the cement mixers and others. The Congress has been hearing a lot of ''horror stories'' lately about taxpayers being wronged and ripped off by the IRS. Many of these abuses are dramatic, but few have been going on as long as the financial harm the IRS has been inflicting upon members of the National Tank Truck Carriers (NTTC) and many other small businesses. The IRS has been keeping money which legally belongs to these taxpayers for years. The IRS' reason for doing so? ''Administrative convenience.''

THE MONEY: IT BELONGS TO OUR MEMBERS, BUT THE IRS IS KEEPING IT

For over thirty years the IRS has refused to allow federal fuel tax credits to many of our members despite the fact that the law clearly states they are entitled to this money. These members pay federal highway taxes on all fuel purchased at the pump, even though some of the fuel is used for off highway purposes and should therefore, pursuant to the IRS Code, not be subject to these taxes.

Congress decided in 1951 to provide a tax credit for off-highway business use to taxpayers that pay fuel taxes. However, the IRS apparently decided long ago that it did not like the law, so it simply found a way to ignore it and keep the money anyway.

Generally speaking, off-highway use is the operation by a vehicle of some function other than driving down the road. A tank truck, for instance, consumes fuel for two purposes: first to power the truck as it drives down the street, and second, to operate the pump that loads and unloads its tanks. Operating the pump is precisely the kind of activity the Congress had in mind when it created the tax credit for ''off-highway business use.'' The tank truck operator is entitled by law to obtain a tax credit for any fuel consumed for this purpose.

THE POLICY: YOU CAN'T GET YOUR MONEY UNLESS YOU HAVE TWO MOTORS

In order to receive the credit the taxpayer is supposed to submit to the IRS an accounting of fuel usage by the vehicle which accurately reflects the amount of fuel used for non-highway purposes. However, the IRS decided that it could not trust the taxpayer. So, it decided to simply deny the credit by writing a regulation providing that, in order to qualify for the credit, you must have two separate motors on your truck—one to drive it down the road, the other to power your pump. In other words, the IRS said to the taxpayer, ''We don't trust you; we don't care how you conduct your business; we don't care what type of efficient equipment you need or use. If you want to get your money back from us, your truck must have two motors.''

THE RATIONALE: THE IRS' ''ADMINISTRATIVE CONVENIENCE IS MORE IMPORTANT THAN THE RIGHTS OF TAXPAYERS

Despite the absurdity of the ''you can't get your money unless you have two motors'' policy, when this regulation was challenged in the Tax Court, the court upheld the IRS, acknowledging that this rule existed for the IRS' ''administrative convenience.'' In other words, the court decided that the administrative convenience of the IRS was more important than the taxpayers' rights under the law. The Tax Court ruled that the IRS could keep money that the Congress said belonged to the taxpayer—or, alternatively, the IRS could force the taxpayer to go out and buy a truck with an extra motor if it wanted to get the tax credit to which the Congress said it was entitled.

THEY DON'T MAKE 'EM LIKE THAT ANYMORE

Adding to the absurdity of this policy the same decision which upholds the IRS' ''two motors or you can't get your money'' policy, which incidentally was written in 1995, contains the following information about the availability of trucks with extra motors:

''The parties have stipulated that since the early 1970's, manufacturers of vehicles have stopped producing standard vehicles that contain a separate motor to power the vehicles' separate equipment.''

IF YOU HAVE A COMPUTER YOU DON'T NEED TWO MOTORS

Aside from the fact that it is almost impossible to find vehicles for sale that have two motors, the availability and widespread use of computers which keep accurate and verifiable track of fuel usage today totally undermines the IRS' original rationale of the two-motor rule. Even if there was arguably some rationality behind the policy when it was first implemented back in the fifties, that so-called logic is no longer valid in today's world. The IRS is well aware that computers can more accurately keep track of fuel usage than can two separate motors. We have provided them with this information.

IF STATES CAN DO IT, WHY CAN'T THE FEDS?

Various states have found equitable ways that are not ''administratively inconvenient'' to either rebate or provide credits for

state fuel taxes to the same industries that are being denied the federal fuel credit by the IRS. If they can do it why can't the IRS?

''DON'T ASK, DON'T TELL'': WE CAN'T RIGHT THE WRONG BECAUSE WE DON'T KNOW HOW MUCH IT WILL ''COST''

Our members are aware that Congress must know how much something costs before it writes a law—and we are very supportive of this approach to public policy. Nevertheless, we do not believe that the federal government should have to figure out how much it will cost to stop violating a law before it decides to stop violating it.

The IRS attitude is: we don't want to discontinue our policy of keeping your money even though it doesn't belong to us, because we're not sure we can afford to stop keeping it. This is an absolute outrage. Furthermore, we have been discouraging from even finding out how much the IRS is illegally retaining every year from our members. We should at least be able to get an accounting of how much of the taxpayers' money the IRS is keeping each year. One thing we know for certain—our individual members and the small business owners throughout the country need this money, and more importantly, they are legally entitled to it. We therefore ask the Congress to immediately request an accounting of the IRS with regard to this money.

THE SOLUTION: IF THE IRS REFUSES TO IMPLEMENT REGULATIONS REFLECTING THE WILL OF CONGRESS, THEN PASS LEGISLATION TO MAKE THE IRS COMPLY WITH THE LAW

The most sensible way to resolve this would be for the IRS to acknowledge the existence of modern technology and revise its regulations to accommodate tank truck operators and others who can document off-highway usage in an accurate and verifiable way. Unfortunately, the IRS has consistently refused to accommodate the business realities facing taxpayers.

Therefore the only way to make the IRS comply with the federal law and stop them from keeping money that rightfully belongs to our members and many other hard-working owners and operators of small businesses throughout the country is to pass a law that clarifies for the IRS that a credit is a credit. We call upon Congress to do so. H.R. 1056, introduced by Representative JERRY WELLER (R–IL) and JON CHRISTENSEN (R–NE) on March 13, 1997 would accomplish this. We call upon the Congress to disregard the IRS' objections and pass this legislation, and we invite all Members of Congress who to join us in this effort by co-sponsoring H.R. 1056.

We ask the Congress to acknowledge that it should not ''cost'' the Treasury money to comply with a law that Congress has already written and disregard the IRS' refusal to comply with the law on the grounds that it would ''cost'' money or that it would be ''administratively inconvenient.'' If our members, or any other taxpayers, used either of these reasons for not complying with federal law what do you think would happen to them?

## CONGRATULATIONS LEEROY CLARK

### HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, the hallmark of our Nation is the desire of people to improve conditions for their neighbors and their communities. The Knights of Columbus, Holy Trinity Assembly 2013, is next week recognizing an individual whom I have had the privilege of knowing for some time, Mr. LeeRoy Clark. He is being honored for having dedicated himself to serving the people of Tuscola County through civic activity within a humanitarian outlook.

LeeRoy Clark is the chairman of the board of directors of the Human Development Commission. This organization provides many valuable services to people in Huron, Lapeer, Sanilac, and Tuscola Counties, ranging from food assistance to energy aid, attention to medical needs, and a host of other activities. His sincere determination is known by the many people who have benefited from his civic involvement over the years.

LeeRoy attended Michigan State University, and is a graduate of the General Motors Institute and the FDR Labor Center. A veteran of both World War II and the Korean war, he also has served as a board member of UAW Local 659, president of the Millington Parent-Teachers Association, chairman of the Red Feather Campaign, and Board Member of the Genesee County Mental Health and United Way.

His other civic involvements have included active leadership in the Democratic Party, the Urban League, American Legion, VFW, and Arbela Methodist Church. His good work is widely recognized, and he has won numerous awards from the Tuscola County Advertiser, the Saginaw News, the Michigan State Legislature, the Michigan Association of Community Action Agencies, and the National Caucus and Center of Black Aged.

The award for community service this year is being presented in memory of Father William Cunningham, a long-time civil rights activist who never knew the meaning of two words: ''no'' and ''limits''. His philosophy was that more could always be done, and that every proposal was possible with reasonable modification. His enthusiasm was ineffective and his accomplishments simply breathtaking. Any individual winning an award named in honor of Father Cunningham, whose family resides in my district, has earned an honor that will be difficult to ever match.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating LeeRoy Clark, his wife Artha, his daughters Linda, Mary, and Charlotte, on this award, and in offering our best wishes for all that the future holds for them.

## REMEMBERING THE LIFE OF MARSHALL GREEN

### HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has been a dear friend, an honorable mentor, and a distinguished community leader, Marshall Green. Two weeks ago, family and friends in California mourned as Marshall lost his courageous battle with cancer and diabetes. But with his passing, we know the memory of his spirit will carry on in those that he touched over the years.

Marshall was born in April 1919, and lived most of his life near his hometown of Los Angeles. Known by most as the nicest man they ever met, Marshall gave his all to his family, his community, and his country.

Marshall served with the U.S. Coast Guard in the Pacific Theater during World War II, seeing action from Alaska to the South Pacific. Following the war, he returned home to his native Los Angeles, where he worked for Universal Studies as an admired and distinguished production executive, working on such films as ''Jaws,'' ''Coal Miners Daughter,'' ''Airport,'' ''Earthquake,'' and ''Animal House.''

Marshall was an unfailing supporter of his beloved alma mater, the University of Southern California. And while our two schools were crosstown rivals, his devotion, pride and spirit were worthy of envy. He served USC as a distinguished alumni advisor, active member of the board of trustees, and devoted Alumni Club member. Pride in USC gave Marshall a great deal of satisfaction and honest fun. On one occasion, he secretly arranged for the renowned Trojan Marching Band to burst into a meeting at his yacht club to perform for the assembled members.

Humor was only one of Marshall's many trademarks. As the father of one of my dearest friends—and former boss from my days as a deputy district attorney, Terry Green—this is the side I remember. Marshall exuded joy in his life, family, and friends. His dedication to his family and his community was unique and genuine. Marshall leaves behind his beloved wife of 52 years, Patricia, and is survived by his children: Judge Terry Green, Michael Green, Alan Green, Ken Green, and Kelly Green.

Mr. Speaker, good friends are tough to come by, and honest friends even more so. Marshall Green was both of these to many people. In recognizing his life of service and dedication, I ask my colleagues to join with me today in saluting the life of Marshall A. Green.

## RESOLUTION WITH RESPECT TO GERMAN GOVERNMENT DISCRIMINATION AGAINST MEMBERS OF MINORITY RELIGIOUS GROUPS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. NEY. Mr. Speaker, I submit for printing in the RECORD the text of House Concurrent Resolution 22 as approved by the Committee on International Relations.

H. CON. RES. 22

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to German government discrimination against members of minority religious groups, particularly those members who are United States citizens.

Whereas since World War II, Germany has been a friend and ally of the United States;

Whereas German government discrimination against members of minority religious groups, particularly against United States citizens, has the potential to harm the relationship between Germany and the United States;

Whereas artists from the United States associated with certain religious minorities have been denied the opportunity to perform, have been the subjects of boycotts, and have

been the victims of a widespread and well-documented pattern and practice of discrimination by German Federal, State, local, and party officials;

Whereas the 1993, 1994, 1995, and 1996 United States Department of State Country Reports on Human Rights in Germany all noted government discrimination against members of the Church of Scientology in Germany;

Whereas the German State of Baden-Wuerttemberg barred Chic Corea, the Grammy Award-winning American jazz pianist, from performing his music during the World Athletics Championship in 1993, and in 1996 the State of Bavaria declared its intention to bar Mr. Corea from all future performances at State sponsored events solely because he is a member of the Church of Scientology;

Whereas the Young Union of the Christian Democratic Union and the Social Democratic Party orchestrated boycotts of the movies ''Phenomenon'' and ''Mission Impossible'' solely because the lead actors, Americans John Travolta and Tom Cruise, are members of the Church of Scientology;

Whereas members of the Young Union of the Christian Democratic Union disrupted a 1993 performance by the American folk music group Golden Bough by storming the stage solely because the musicians are members of the Church of Scientology;

Whereas the Evangelical Christian Church of Cologne, led by an American clergyman, Dr. Terry Jones, had its tax-exempt status revoked by the German government with the reason being that the church benefits to society were of ''no spiritual, cultural, or material value'';

Whereas the German government is constitutionally obligated to remain neutral on religious matters, yet has violated this neutrality by supporting and distributing information to the general public that gives the impression that ''sect-experts'', who are openly critical of all but the major churches, are in a position to provide the public with fair, objective, and politically neutral information about minority religions;

Whereas the Jehovah's Witnesses' application for recognition as a corporation under public law, which would have put them on equal legal status with the Catholic and Protestant churches, was denied by the Federal Administrative Court because the church's doctrine of political neutrality was considered to be antidemocratic;

Whereas government officials and ''sect-experts'' are using the decision denying the Jehovah's Witnesses recognition as a corporation under public law as a justification for discriminatory acts against the Jehovah's Witnesses, despite the fact that a constitutional complaint is still pending before the German Constitutional Court;

Whereas adherents of the Muslim faith have reported that they are routinely subject to police violence and intimidation because of their ethnic and religious affiliation;

Whereas the 1994 and 1995 Reports to the Human Rights Commission of the United Nations on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief by the Special Rapporteur for Religious Intolerance criticized Germany for restricting the religious liberty of certain minority religious groups;

Whereas Germany, as a signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, is obliged to refrain from religious discrimination and to foster a climate of tolerance; and

Whereas Germany's policy of discrimination against minority religions violates German obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords: Now, therefore, be it

*Resolved by the House of Representatives* (the Senate concurring), That the Congress—

(1) continues to hold Germany responsible for protecting the rights of United States citizens who are living, performing, doing business, or traveling in Germany, in a manner consistent with Germany's obligations under international agreements to which Germany is a signatory;

(2) deplores the actions and statements of Federal, State, local, and party officials in Germany which have fostered an atmosphere of intolerance toward certain minority religious groups;

(3) expresses concern that artists from the United States who are members of minority religious groups continue to experience German government discrimination;

(4) urges the German government to take the action necessary to protect the rights guaranteed to members of minority religious groups by international covenants to which Germany is a signatory; and

(5) calls upon the President of the United States—

(A) to assert the concern of the United States Government regarding German government discrimination against members of minority religious groups;

(B) to emphasize that the United States regards the human rights practices of the Government of Germany, particularly its treatment of American citizens who are living, performing, doing business, or traveling in Germany, as a significant factor in the United States Government's relations with the Government of Germany; and

(C) to encourage other governments to appeal to the Government of Germany, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the rights of foreign citizens and members of minority religious groups in Germany.

## A TRIBUTE TO RUBYE GIBSON FOR 80 YEARS OF OUTSTANDING SERVICE TO VETERANS

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I rise to pay tribute to Rubye Gibson, for her 80 years of outstanding service to our veterans. On November 11, 1997, during the city of Montebello's Veterans Day ceremony, the community will honor Rubye for her lifetime of dedication to the men and women of our nation's Armed Forces.

As the last surviving president of the Ladies Auxiliary Barracks No. 5, the fifth veterans organization in the United States, Rubye demonstrated tremendous leadership during World War I. During World War II she was a mail carrier for the city of Montebello. Of the period in our Nation's history, Rubye recalls having the fortunate experience of shaking hands with Gen. Jimmy Doolittle and being invited to meet Gen. Omar Bradley. Her lifetime of experience and work with veterans has earned her the respect and admiration of her colleagues and community members.

Rubye comes from a long line of family members dedicated to serving our country. It was at the age of 13, when her brother, while fighting in France received wounds that would keep him hospitalized for 2 years, that Rubye decided the only way she could help her brother was to work with veterans. For the past 80 years, Rubye has kept her commitment to helping our Nation's veterans through her volunteer work with the Veterans of foreign Wars. To this day, she remains relentless in her effort to sell ''buddy poppies'' to help hospitalized and indigent veterans.

Along with an unwavering dedication to help our veterans, Rubye has displayed a genuine interest and concern for our community's children. In rural South Dakota, Rubye's career as a school teacher was cut short because, in that day in age, it was unacceptable for a married woman to teach. For 18 years, Rubye volunteered her time to the Dorothy Kirby Center and to the Foster Grandparent Program, where she worked with mentally disturbed children.

Mr. Speaker, it is with pride that I rise today to pay tribute to Rubye Gibson for her lifetime of service to our Nation's veterans. I ask my colleagues to join me in saluting Rubye for her 80 years of selfless commitment to the men and women who have proudly served our country in the Armed Forces.

## CAMPAIGN FINANCE REFORM

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. KIND. Mr. Speaker, another day and still no campaign finance reform. We are here on a Saturday trying to finish our legislative business. We have made an extraordinary effort to finish our work so that Members may be able to go home before Veterans Day for the rest of the year. Yet we haven't considered campaign finance reform.

With the possibility of only 1 day left in this session it is obvious that the leadership has no desire to allow a vote. This is too bad. A majority of the Members of this House have signed on to campaign finance reform legislation. A majority of the public wants to see an end to the abuses of the system. The leadership has said no. The public knows that there will be no reform passed next year, during an election year. The leadership of this House has failed the people it is sworn to represent.

## AGRICULTURE RESEARCH AUTHORIZATION ACT

### HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mrs. CLAYTON. Mr. Speaker, I intend to vote for this bill. I look forward to research funding that can assist in finding out the cause of the fish kills in my State, and the origin of the *Pfisteria* that has plagued our waterways. I also look forward to those provisions that will be of benefit to the 1890 land grant Institutions. But, I rise to express my deep concern with the fate of this bill in conference.

Last year, this Congress pushed through major welfare reform legislation. While I supported welfare reform, I did not support those

provisions that will leave many Americans without food, without basic nutrition, hungry. Under the Senate bill, we will cut another $1.2 billion, over 5 years, from the Food Stamp Program. The savings from this new cut in food stamps will go to other agriculture programs.

Mr. Speaker, I do not oppose more funding for those agriculture programs, however, I do oppose further cuts in the Food Stamp Program.

Over 877,000 North Carolinians live in poverty. Of those poor North Carolinians, over 600,000 of them, on average, receive food stamps. Many are senior citizens and children. Last year's welfare reform bill significantly affected food stamp recipients in several ways by: cutting $27 billion from the Food Stamp Program; freezing the standard deduction, the vehicle deduction, the shelter cap and the minimum allotment; setting strict time limits on the eligibility of so-called able-bodied people between the ages of 18 and 50. These persons will only be eligible 3 months out of 36, unless they are enrolled in a work placement or training program—exceptions are made for areas of high unemployment, but only if the governor of the State requests a waiver.

Our Governor did not see fit to ask for a waiver that included all 37 areas that qualified. Our Governor only asked for a waiver that served seven areas and disqualifying most legal immigrants from receiving benefits until they become actual citizens—even though they pay taxes.

The Senate bill continues to take funds from a program for the poor. The projects that will be funded are worthy. Those who felt the brunt of last year's welfare reform bill, should now feel the relief of these savings. I hope we will provide that relief in the conference agreement on this bill.

## TRIBUTE TO HYSTERCINE RANKIN

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. THOMPSON. Mr. Speaker, I rise today to pay tribute to Mrs. Hystercine Rankin. Mrs. Rankin, a quilter, received the 1997 National Heritage Fellowship. The award is the National Endowment for the Arts' most prestigious honor in folk and traditional arts.

Mrs. Rankin, a native of Port Gibson, MS, has been a quilter all of her life. She has taught many workshops throughout the State and worked with quilters to help them improve their skill. Mrs. Rankin has also influenced others to become more involved in the quilting community. She is truly an asset to the State of Mississippi.

During her trip to Washington, she had the opportunity to meet with First Lady Hillary Clinton. When asked about her new found acquaintance, Mrs. Rankin simply stated that she never knew that a needle would take her this far from home.

Mr. Speaker, it gives me great pleasure to pay tribute today to Mrs. Hystercine Rankin, one of Mississippi's precious jewels.

## HELP FOR THE NATION'S COMMUNITY HEALTH CENTERS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. RANGEL. Mr. Speaker, I am today sponsoring legislation to help the Nation's frontline health delivery organizations survive the move to managed care. The bill I am introducing today will provide Medicare wraparound payments to federally qualified health centers [FQHC's] and parallels a provision in this summer's Balanced Budget Act which provided Medicaid wraparound payments to FQHC's.

FQHC's, such as community health centers [CHC's], receive about 8 percent of their revenues—or about $200 million annually—in payments for care furnished to Medicare beneficiaries. For the services they provide, health centers are on a so-called reasonable cost basis, which is designed to ensure that sufficient funds are provided to cover the costs of care.

As Medicare patients choose to move into managed care plans which include FQHC's as providers, the payment rates that the health maintenance organizations [HMO's] have been willing to pay the centers is often less than the FQHC payment described in the previous paragraph. My legislation is designed to correct this payment shortfall by providing that each FQHC will receive a supplemental wraparound payment from Medicare in an amount equal to the difference—if any—between the FQHC rate and the amount the FQHC receives from the HMO. This type of wraparound provision was included in the Balanced Budget Act for Medicaid payments, but not for Medicare. Today's bill provides parallel treatment for Medicare and Medicaid payments to these frontline health delivery organizations.

Why do these centers need an additional payment? Why can't they live with the managed care payment rate? Basically, these centers do so much additional, uncompensated care and outreach in their neighborhoods that they need what is the equivalent of a disproportionate share payment to help them finance these essential, extra services—and HMO's are unlikely to contract with providers who have these extra disproportionate share costs. If CHC's are to be able to continue their mission of service, they will need Medicare's help in financing these extra costs.

Following is a memo from the National Association of Community Health Centers elaborating on the essential work of the Nation's CHC's and explaining why these extra wraparound payments are so necessary.

WHY HEALTH CENTERS MERIT A SPECIAL WRAPAROUND PAYMENT

The current reasonable-cost reimbursement provisions for health centers were established by Congress to ensure that Medicare and Medicaid cover the reasonable cost of furnishing covered services to their beneficiaries. Underpayment to these centers is particularly onerous because the revenue to cover unreimbursed costs can only come from federal and state grants intended to support services for the uninsured and essential, non-covered services for others. Health centers cannot absorb risk for several reasons:

Their Patients: Health center patients comprise the most vulnerable populations in America today—persons who, even when insured, remain isolated from traditional forms of medical care because of where they live, who they are, and their frequently far greater levels of complex health care needs. Because of factors such as poverty or hopelessness (not to mention the social-environmental threats that permeate low income/underserved communities), health center patients are at higher risk for serious and costly conditions (diabetes, hypertension, TB, high-risk, pregnancies, HIV) than the general population.

Their History and Mission: Health centers were founded to make their services available to all in their communities, and particularly to those who can't get care elsewhere (again because of who they are and their often complex health and social problems). They have already proven their efficiency, but their fundamental mission and purpose should not be compromised by placing them at risk for the care their patients need. On the contrary, because they serve disproportionate numbers of high-risk patients, adequately compensating the health centers for their care can serve to make risk levels more reasonable for other providers.

Their Services: Health centers offer comprehensive, ''one-stop'' primary care rather than a traditional medical model for chronic and acture care. Prevention is the focus. These services need to be promoted, not restricted or reduced, as would be the case under risk based contracting. For their patients and communities, in particular, expanding the availability of preventive and primary care services will be vital in increasing access and reducing costs. Here, too, the success of managed care will depend on this.

Improving Access: As has been noted, health center patients—whose health problems are typically more serious and more complicated than it true of other Americans—frequently need special services that may not be recognized as reimbursable, but which are essential to ensure that effectiveness of the medical care provided. These services, such as multilingual/translation services, health/nutrition education, patient case management services, outreach and transportation, will need to be provided, even if they are not covered and reimbursable; thus, the centers cannot rely on their other funding sources to cover them against excessive risk.

No Reserves. Because of their historic mission and the restrictions placed on them by their funding sources, health centers have no available capital, limited marketing capability, poor and sicker patients and thus no leverage in the marketplace. Moreover, all revenues received by health centers (all of which are either public or not-for-profit organizations) are reinvested in patient care services—there are no ''profits,'' and they have no reserves to protect them against risk. Consequently placing too much risk on health centers would force them to remain outside the managed care system rather than being centrally involved.

Perhaps most importantly, development of primary and preventive care in underserved communities has been particularly effective in reducing unnecessary and inappropriate use of other settings such as emergency rooms which are much more costly. This is especially true of public-private partnerships such as the federally-assisted health center programs, which today provide care to nearly 10 million low income people in underserved rural and urban communities across the nation. Because of their experience, the health centers—together with other key community providers—form the backbone of the local health care system for most underserved people and communities, and have

had a major impact on the health of their communities.

Their presence and availability of services has significantly lowered unnecessary use of costlier, less appropriate settings such as hospital emergency rooms and ''Medicaid mills''.

Their consolidation of both preventive and comprehensive primary care services under one roof has measurably reduced the frequency and cost of preventable illnesses.

Their experience in case management has brought about a substantial reduction in specialty care and hospital admissions, saving millions of dollars for the health care system.

Despite the poorer overall health of their patients, studies have shown that health centers are tremendously effective in reducing total health care costs for their patients. Recent studies in California, Maryland, and New York show that those states incurred 30% lower cost per case for Medicaid recipients who were regular patients of community health centers than for Medicaid recipients who used other providers. These findings underscore those in a earlier 5-day study that showed significant Medicaid savings through use of health centers.

## TRIBUTE TO DR. MARTIN MARTY, NATIONAL MEDAL OF HUMANITIES RECIPIENT

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. LIPINSKI. Mr. Speaker, I rise today to congratulate one of my constituents from the Third Congressional District of Illinois, Dr. Martin Marty of Riverside, IL. Dr. Marty was awarded the National Medal of Humanities for his work in theology. Dr. Marty was presented his Medal by President Clinton on September 29, 1997.

Dr. Marty is a prolific writer and is the author of 50 books and over 4,300 articles. He is the senior editor of the weekly magazine Christian Century. In addition to his column in the Christian Century, Dr. Marty circulates his own biweekly newsletter entitled Context. Dr. Marty also teaches a class in religion twice a week at the University of Chicago.

The National Medal of Humanities was not the first time Dr. Marty has been recognized for his outstanding work. Dr. Marty is the holder of 56 honorary degrees from prestigious universities throughout the world.

Dr. Marty is happily married to his wife Harriet, who accompanied him to dinner at the White House. The Martys also have a son, Micah. Father and son have collaborated on several books, with father supplying the text to the spectacular photos taken by the son. The family are members of Ascension Lutheran Church in Riverside.

I urge my colleagues in the House of Representatives to join me in congratulating Dr. Marty for his fine work. He is a man of incredible spiritual insight with a gift for fine writing. Dr. Marty, I commend you for all your literary contributions and I congratulate you on your National Medal of the Humanities. I hope you continue your work and I wish you the best of luck in the future.

## CONCERN ABOUT EXPORTS AND DOMESTIC CONTROLS

### HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SHERMAN. Mr. Speaker, the Clinton administration policy on encryption makes no sense, is costing the United States critical export dollars, and threatens the fundamental privacy rights of all Americans in the information age.

For an administration that claims it is sympathetic to and supportive of America's high tech practitioners, what is happening today demonstrates exactly the opposite. Because for all the complexity of designing top of the line computer products and programs with information security—encryption—features, the issues here are not complex at all.

Encryption is both the first and the last line of defense against hackers who would like to get into bank accounts or pry loose credit card information that can cost consumers and businesses dearly. Encryption is crucial for protecting customers and companies from criminal intrusion into both their private lives and their businesses.

Yet the administration says it is addressing the concerns of national security and law enforcement by refusing to permit the export of software with 56 bits or greater encryption protection, unless the company agrees to commit to build key recovery products. It also suggests that the war against criminals, such as pornographers, credit card thieves, terrorists and others too numerous and too diverse to mention, will be all for naught unless government eavesdroppers are handed the keys to unlock all the billions of electronic transmissions that are made every day in today's electronic information age.

Now as ridiculous as it might seem that this administration wants the capacity to tune in on everything going through the airwaves; nevertheless, that is the tool they say they need to protect all of us from today's criminal elements. It is rather mind-boggling to contemplate how the Federal payroll might explode if the NSA and the FBI were given the opportunity to monitor the messenger traffic that goes on every day of the week. But it is also mind-boggling to contemplate the picture of Uncle Sam riding roughshod over privacy rights that have been guaranteed under our Constitution since the days of our Founding Fathers.

If American firms had a monopoly on encryption skills, and if these products were not available from anyone on either side of the Atlantic or Pacific, perhaps an argument could be made for restricting exports of products with encryption that could not be reproduced elsewhere. But that is not the case. What in fact the administration has done, and is doing, is creating, in the words of the New York Times, ''a bonanza for alert entrepreneurs outside the United States.'' And even then I see no good reason for restricting the use of encryption within the United States.

I call my colleagues attention to an article from the New York Times of April 7, 1997. It tells the story of how the German firm of Brokat Information Systems has carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting. This German company actually markets its products by telling potential purchasers that they shouldn't use American export-crippling products.

This should serve as a reminder that even if Congress should pass and the President should sign Fast Track authority to negotiate new trade agreements with some of our Latin American neighbors, we are not going to turn our trade deficit around if we persist on handing on a silver platter to foreign competitors markets that should be dominated by American firms.

At this point I would like to insert the article from the New York Times, of April 7, entitled ''U.S. Restrictions on Exports Aid German Software Maker.''

[From the New York Times, Apr. 7, 1997]

U.S. RESTRICTIONS ON EXPORTS AID GERMAN SOFTWARE MAKER

(By Edmund L. Andrews)

BOEBLINGEN, GERMANY, APRIL 3.—Boris Anderer and his four partners have a message for the spy masters in America's national security establishment; thank you very, very much.

Mr. Anderer is the managing director for marketing at Brokat Informationssystems G.m.b.H., a three-year-old software company here that is growing about as fast as it can hire computer programmers.

When America Online wanted to offer on-line banking and shopping services in Europe, it turned to Brokat for the software that encodes transactions and protects them from hackers and on-line bandits. When Netscape Communications and Microsoft wanted to sell Internet software to Germany's biggest banks, they had to team up with Brokat to deliver the security guarantee that the banks demanded.

But what is most remarkable is that Brokat's rapid growth stems in large part from the Alice in Wonderland working of American computer policy. Over the last two years, Brokat and a handful of other European companies have carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting.

Mr. Anderer could not be happier. ''The biggest limitation on our growth is finding enough qualified people,'' he said, as he strode past rooms filled with programmers dressed in T-shirts and blue jeans.

The company's work force has climbed to 110 from 30 in the last year, and the company wants to add another 40 by the end of the year.

''This company has grown so fast that I often don't know whether the people I see here have just started working or are just visitors,'' he said.

Encryption technology has become a big battleground in the evolution of electronic commerce and the Internet. As in the United States, European banks and corporations are racing to offer on-line financial services, and many of these services are built around Internet programs sold by American companies like Netscape and Microsoft.

Cryptography is crucial because it provides the only means for protecting customers and companies from electronic eavesdroppers.

Although the market for encryption software is in itself tiny, it is a key to selling technology in the broader market of electronic commerce. Encryption is the first line of defense against hackers eager to pry loose credit card information and raid bank accounts, so it plays a critical role in the sale of Internet servers and transaction-processing systems.

Brokat, which has revenues of about 10 million marks ($6 million), uses its cryptography as a door-opener to sell much more complicated software that securely links conventional bank computer systems to a bank's internet gateways and on-line services. Netscape, Microsoft and computer equipment manufacturers all include encryption in the networking systems they sell to corporations.

But the United States Government blocks American companies from exporting advanced encryption programs, because agencies like the Federal Bureau of Investigation and the National Security Agency fear that they will lose their ability to monitor the communications of suspected terrorists and criminals.

Far from hindering the spread of powerful encryption programs, however, American policy has created a bonanza for alert entrepreneurs outside the United States. Brokat's hottest product is the Xpresso Security Package, a set of computer programs that bump up the relatively weak encryption capability of Internet browsers from Netscape and Microsoft.

Besides America Online, Brokat's customers include more than 30 big banking and financial institutions around Europe. Deutsche Bank A.G. Germany's biggest bank, uses Brokat's software at its on-line subsidiary, Bank 24. Hypo Bank of Munich uses Brokat in its on-line discount stock brokerage operation. The Swiss national telephone company and the Zurcher Kantonalbank are also customers.

Among Brokat's competitors, UK Web Ltd, based in London, is marketing an equally powerful encryption program in conjunction with a Silicon Valley company C2Net Software. Recently, UK Web and C2Net boasted of selling ''full-strength'' cryptography developed entirely outside the United States.

''We don't believe in using codes so weak that foreign governments, criminals or bored college students can break them,'' the two companies said in a statement, in a stinging swipe at the American export restrictions.

Bigger companies are starting to jump into the fray as well. Siemens-Nixdorf, the computer arm of Siemens A.G., recently began marketing a high-security Internet server program that competes with products from Netscape. Companies can download the software from Siemens computers in Ireland.

There is nothing illegal or even surprising about this. The basic building blocks for advanced encryption technology, in a series of mathematical algorithms or formulas, are all publicly available over the Internet. American companies like Netscape sell strong encryption programs within the United States, and companies like Brokat are even allowed to export their product to customers in the United States.

For many computer executives, the real mystery is why the United States Government continues to restrict the export of encryption technology. ''The genie is out of the bottle,'' said Peter Harter, global public policy counsel at Netscape, who complained that American policy thwarts his company's ability to compete.

''I have a good product, and I can sell it to Citibank, but I can't sell it to Deutsche Bank,'' Mr. Harter said. ''It doesn't make any sense. Why shouldn't they be able to buy the same product at Citibank? It makes them mad, and it makes us mad.''

In response to industry complaints, American officials have repeatedly relaxed the restrictions on encryption over the last several years, and they did so again last November. But because the speed of computers has increased so rapidly, codes that seemed impenetrable just a few years ago can be cracked within a few hours.

In a policy announced last fall, the Clinton Administration announced that it would allow American companies to freely export cryptography that used ''keys'' up to 40 bits in length. The longer the key, the more difficult a code is to crack. But banking and computer executives say that 40-bit codes are no longer safe and can be cracked in as little as a few hours by skilled computer backers. The minimum acceptable code, according to many bank executives, must have keys that are 128 bits long.

''From our point of view, there is at least the possibility that a 40-bit encryption program can be broken, and that means there is a danger that our transaction processing could be compromised,'' said Bernd Erlingheuser, a managing director at the Bank 24 unit of Deutsche Bank. Bank 24 has about 110,000 customers in Germany who gain access to banking services over the Internet using either the Netscape Navigator or Microsft's Internet Explorer.

Anette Zinsser, a spokeswoman for Hypo Bank, concurred. ''Forty bits is just too low,'' she said. Hypo Bank offers Internet-based banking and discount brokerage services to about 28,000 customers.

In a country not known for high-technology start-ups, Brokat jumped at the opportunity. Mr. Anderer, a former consultant at McKinsey & Company in Germany teamed up three years ago with two fraternity friends, Michael Janssen and Stefan Roever, and two seasoned computer experts, Achim Schlumpberger and Michael Schumacher.

The group originally conceived of building a company around modular software components that were designed for the banking industry, and they financed the company for nearly two years through the money they earned from consulting projects. But they were quickly drawn in the area of encryption, and developed a series of programs around the Java technology of Sun Microsystems.

The Xpresso encryption package is installed primarily on the central ''server'' computers that on-line services use to send material to individual personal computers. Customers who want to connect to a bank's server download a miniature program, or applet, that meshes with their Internet browser program and allows the customer's computer to set up an encrypted link with the server. The effect is to upgrade the 40-bit encryption program to a 128-bit program, which is extremely difficult for outsiders to crack.

Now, in another step through the looking glass of encryption policy, Brokat is trying to export to the United States. There is no law against that, but American laws would theoretically prohibit a company that used Brokat's technology from sending the applets to their online customers overseas. So the company is now negotiating with the National Security Agency for permission to let American companies send their software overseas, which is where it started from in the first place.

It Brokat convinces the spy masters, the precedent could help American software rivals. ''This could open a new opportunity that would benefit American companies if they understand the implications,'' Mr. Anderer said.

## NATIONAL COUNCIL OF SENIOR CITIZENS: KYL AMENDMENT WOULD PUT ELDERLY AND DISABLED CITIZENS AT SERIOUS FINANCIAL AND MEDICAL RISK

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. STARK. Mr. Speaker, following is a letter from the National Council of Senior Citizens spelling out why the Kyl-Archer amendment is bad for seniors and the disabled and for the Medicare Program.

I urge Members to oppose this amendment. As the public begins to understand what this amendment would do, they will overwhelmingly reject this proposal and the Members who vote for it:

NATIONAL COUNCIL OF SENIOR CITIZENS,
*Silver Spring, MD, October 30, 1997.*

DEAR SENATOR: The National Council of Senior Citizens strongly opposes any legislation which would reopen the Balanced Budget Act (BBA) for the purpose of limiting or repealing the two-year bar to any Medicare billings after a doctor enters a private payment contract with a Medicare-eligible person. Passage of H.R. 2497, the Medicare Beneficiary Freedom to Contract Act of 1997, would decimate the Medicare program by removing cost protections while reducing the supply of doctors serving the needs of the overwhelming majority of Medicare users.

NCOA opposed, and continues to oppose, the inclusion of the original Kyl Amendment to the Medicare program. Such a provision, allowing a doctor to contract privately for medical care payments outside of the Medicare program, promises to shred three decades of essential quality, consumer, and financial protections which have been incorporated into Medicare.

As enacted, the Kyl Amendment did include the provision barring for two years another Medicare billings subsequent to an agreement for privately-paid Medicare-covered services. Clearly, this could inhibit widespread utilization of the private contract option by many doctors who have not heretofore, in large numbers, declined Medicare payments. Removal of this bar would open the Medicare program to opportunities for many doctors to coerce patients into giving up their Medicare protection in the name of ''freedom to contract.''

Fewer than 5% of all doctors decline to treat Medicare patients, and only 1% of Medicare beneficiaries have trouble finding doctors. The current doctor-patient Medicare market works well, with no shortage of physicians willing to accept Medicare payments. H.R. 2497 will allow doctors to legally pick and choose patient-by-patient, service-by-service, and dictate payment levels to vulnerable persons needing professional services. Instead of freedom, this would cripple Medicare's ability to hold down health care costs and would put elderly and disabled citizens at serious financial and medical risk.

We pledge every effort to defeat H.R. 2497 or any similar bill and to restore Medicare to its responsibility to cover the costs of an essential set of quality medical services provided by competent doctors and institutions on a uniform and universal basis.

Sincerely,

STEVE PROTULIS,
*Executive Director.*

## WEST VIRGINIA'S SENATOR ROBERT C. BYRD HONORED

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. RAHALL. Mr. Speaker, West Virginia's senior Senator, ROBERT C. BYRD, has been named the 1997 Distinguished Legislator of the Year by the University of Michigan.

Senator BYRD is the second legislator to be so honored by the university, which began the program last year through a gift from alumnus Bertram J. Askwith, who established the program to honor contributions by a U.S. Senator or Representative and to provide support—up to $40,000 in scholarships—for a student from the honoree's home State or district to attend the University of Michigan.

In accepting the honor, Senator BYRD said ''I'm deeply appreciative of this honor, particularly because it provides the opportunity for another West Virginian to pursue a formal education.''

Senator BYRD has for years been singularly recognized as an advocate for students who are high academic achievers, have great potential, who merit student tuition assistance because of their hard work and commitment while in school, yet often do not have the means of attending college. He has helped thousands of students receive scholarships through the ROBERT C. BYRD Scholars program, funded under the Higher Education Act. These recipients are students who are not just financially needy, but who also have high grade point averages upon graduation from high school. Senator ROBERT C. BYRD has, throughout his Senate tenure, stressed the need to acknowledge students who work hard in school, are talented, and who, based on merit alone, command our help as they seek to pursue a college career.

I commend the University of Michigan for its recognition of Senator ROBERT C. BYRD as the 1997 Distinguished Legislator of the Year.

But more than that, I salute Senator ROBERT C. BYRD for having, himself, shown the remarkable, personal merit to have attracted the attention of the university to his outstanding lifetime achievements, including many years he served as majority and minority leader in the U.S. Senate, a service to his Nation that, I am confident, helped bring about this new honor as the 1997 Distinguished Legislator of the Year.

Mr. Speaker, many times I have risen to commend our beloved senior Senator from West Virginia, for his enormous heart, his unimpeachable integrity, his unique compassion and for his trustworthiness as a leader of this Nation.

Today, I rise to commend Senator BYRD for a lifetime of work dedicated to helping provide a better life and more opportunity for all people. A humble public servant, Senator BYRD strongly believes in what he himself has said is ''this miracle of a country, where anything is possible, dreams do come true, even for a poor lad from West Virginia who once gathered scraps to feed the hogs on a rough hillside farm.''

## A TRIBUTE TO TRUSTEE MAY SHARP ON THE OCCASION OF HER RETIREMENT FROM THE LITTLE LAKE CITY SCHOOL DISTICT BOARD OF EDUCATION

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I rise to pay tribute to May Sharp, who is retiring from the Little Lake City School Board after 12 years of distinguished service to the children and community of Sante Fe Springs and Norwalk, CA. On Monday, November 17, 1997, close friends, colleagues, and family members will gather to honor May at a special ceremony at the Clarke Estates in Santa Fe Springs.

As a public servant, May has vigilantly cared for the needs of the children of Little Lake. Her dedication to the education of our children is unparalleled. Elected to the Little Lake City School District Board of Education in November 1985, she has served as its clerk for four terms, vice president for two terms, and president for two terms. Her leadership has gained her the respect and admiration of her colleagues and community members. She has been selected to serve as a representative to the Los Angeles County School Trustees Association for three terms, Whittier Area School Trustees Association, Los Angeles County Committee on School District Organization, California School Board Association, and the Trustee Review Committee for the Whittier Area Cooperative for Special Education.

May has been active in education since her eldest son, Lea, entered school in 1961, joining the Lakeview PTA. As an active parent and concerned resident, she has held various chairmanships of PTA committees and served as the secretary and vice president of the PTA before being elected president in 1971. She served at Lakeview until her two sons, Lea and Robert, entered Lake Center, where she took an active role in leading that PTA. She was instrumental in the founding of the Little Lake PTA Council. She has served as an officer since its inception and as its president from 1977 to 1979 and 1981 to 1982. Even during her tenure as a member of the school board, May remained committed to the principles of the PTA and committed many hours to volunteering for PTA sponsored activities.

As a member of the Little Lake City School District Board of Education, May has diligently worked to improve the educational opportunities for all students. She has been supportive of student endeavors like the music program and Washington, DC, visit at Lake Center Middle School. She is active not only throughout the school district, but also throughout the city of Santa Fe Springs.

May has served on the city of Santa Fe Springs Beautification Committee for the past 15 years. Also, she has been Mrs. Santa on the Christmas float each year since its inception and active in the leadership of the Santa Fe Springs Women's Club. She is a supporter of the Community Red Cross Holiday Celebrity Chefs, Santa Fe Springs Chamber of Commerce Destiny Scholarship, and the Santa Fe Springs Community Play House.

May's husband, Al Sharp, serves on the Santa Fe Springs City Council. Along with their two sons, Lea and Robert, daughters-in-law Annie and Lisa, May and Al have two granddaughters, Crystalyn and Candice, who attend school and in the Little Lake City School District.

Mr. Speaker, is it with pride that I rise today to pay tribute to May Sharp on the occasion of her retirement from the Little Lake City School District Board of Education after 12 years of distinguished service. I ask my colleagues to join me in saluting May Sharp for her years of unwavering commitment to our children and her determination to providing the best possible education for our youth.

## PEOPLE OF CUBA

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, I rise today to speak on behalf of the thousands of Cubans who have no voice, for they have no freedom.

On Wednesday, November 5, 1997, yet another resolution was passed by the U.N. General Assembly, condemning our country's economic sanctions against the megalomaniacal dictator, Fidel Castro. One hundred forty-three other nations, including our good trading partners from Europe, Canada, and Japan voted in support of Castro and against the United States. What those countries fail to realize is that they are working against the freedom loving people of Cuba.

For Americans, Cuba, is in many ways, a family matter for us. Hundreds of thousands of Cuban families have been separated on opposite sides of the Florida Straits for years. Cuban-Americans, refugees really from war, have long dreamed to someday be reunited with family and to see their homeland free once again. Unless strong steps are taken to end the Castro regime, that dream will remain just that—a dream. Standing up to Cuba, standing against Castro and his dictatorship, is the only way to turn those dreams into reality. Using our economic leverage makes it clear to the people of Cuba there is no reconciliation with Fidel Castro, there is no compromise, and it is time to bring the dictatorship to a close. We do this as we did against South Africa with apartheid and as we do today against Iraq.

I am filled today more with sorrow than with anger that our allies, our friends, would support the continuation of oppression and tyranny. However, on this most recent vote, I am gratified that we were joined by two distinguished voices for freedom: Israel and Uzbekistan. These two nations have faced and conquered the obstacles that stand in the way of freedom and realize that freedom, and its bounty, is the fundamental human right.

Castro has had a wall put up around Cuba for almost 40 years. It is our duty, as the pillar of democracy, to tear down those walls and bring freedom to the people yearning for it. I am reminded of Robert Kennedy's words, which are so appropriate now. ''Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.''

The walls today stand between the people of Cuba and freedom and were built by Castro. Those walls must come down. America must tear them down. If the United States has to stand alone against Cuba's violent dictatorship, then so be it.

## INTRODUCTION OF A RESOLUTION CONDEMNING DISCRIMINATION AGAINST ASIAN AND PACIFIC ISLANDER AMERICANS

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. ESHOO. Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress that all prejudice against Asian and Pacific Islander-Americans in the United States should be condemned, and that Congress should support the political and civic participation of these Americans through the United States.

I am introducing the resolution at this time when Congress is conducting investigations into possible campaign fundraising violations during the 1996 campaigns. No one disagrees that investigations into legitimate campaign fundraising problems should be conducted or that any individual or party that may have participated in illegal activities should be prosecuted regardless of ethnicity. However, I'm concerned that the tone set by the congressional investigations into possible campaign finance violations may increase biased treatment of Asian and Pacific Islander-Americans.

Media coverage of the figures being questioned, who are of Asian descent, and of alleged contributions by Asian nations has created a perception that Asian and Pacific Islander-Americans as a group should be blamed for the problems of campaign fundraising arising from prohibited from owning property. Under the Alien Land Act passed in California, aliens ineligible to citizenship were prevented from owning land. Other States followed suit and enacted similar laws.

Perhaps the most egregious civil rights violation against Asian or Pacific Islander-Americans was the internment of over 120,000 people of Japanese descent during World War II. Two-thirds of them were American citizens. They were denied their constitutional rights, forced from their homes, incarcerated in internment camps, surrounded by barbed wire, and placed under surveillance of armed guards. Their allegiance to the United States was questioned only because they were of Japanese descent. Not until 1988, when former Representative Norm Mineta introduced legislation to right this historic injustice, was an apology made by the U.S. Government to those interned during the Second World War.

Although anti-immigrant laws were later repealed, those interned received a formal apology, and significant gains have been made by the Asian and Pacific Islander community in the United States, there is still much work to be done to fight discrimination against these citizens.

Asian and Pacific Islander-Americans continue to face racially motivated bigotry and violence, just as they did when their ancestors arrived in this country over 150 years ago. The 1992 report: Civil Rights Issues Facing Asian Americans in the 1990's by U.S. Commission on Civil Rights recounts numerous incidents of bigotry and violence over the last two decades. The National Asian Pacific American Legal Consortium's 1996 Audit of Violence Against Asian the 1996 elections. Reporters contacted donors of Asian descent simply because they were Asian when the story of possible contributions from Asian nations broke. The media has also used offensive racial stereotypes to depict the fundraising violation problem. For instance, the March 24, 1997, cover of the National Review depicted the President, Vice President, and the First Lady in Asian dress and stereotypically racist physical features.

I am also disturbed by stories of congressional activities possibly driven by racial stereotypes. For instance, by colleague, Representative MORAN, described on the floor last week the story of a constituent who received a subpoena for the telephone records of his wife from the House Committee on Government Reform and Oversight just because she has a Chinese surname.

The United States has a long, sordid history of discrimination against Asian and Pacific Islander-Americans. The Chinese Exclusion Act of 1882 limited the number of Chinese immigrants admitted into the United States. It was the first and only immigration law in American history that targeted a specific nationality and was passed due to growing anti-Chinese sentiment created by white laborers competing for jobs. It wasn't repealed until 1943.

The Gentlemen's Agreement of 1908 prohibited Japanese immigration, and the National Origins Quota System limited the number of immigrants from Asian nations.

At the beginning of our Nation, the Founders limited the eligibility for citizenship to free white persons only. In the early 1900's, laws restricting citizenship led to Asian immigrants being Pacific Americans found an increase of 17 percent of anti-Asian incidents reported for 1996 from the previous year. This is particularly disturbing since violent crimes on the whole for 1996 decreased by 7 percent.

In recent months, we have seen incidents of racially motivated violence and harassment toward Asian and Pacific Islander-Americans to discourage their political participation. Students on a University of California campus protesting the antiaffirmative initiative, proposition 209, received chilling hate calls. Asian or Pacific Islander-Americans running for political offices in California, Ohio, and Washington reported their campaign materials vandalized with racial slurs.

Mr. Speaker, the resolution I am introducing reaffirms the rights of the Pacific Islander-American community and underscores the need to protect and advance the civil and constitutional rights of all Americans. I urge my colleagues to do the same and support this resolution.

## WOMEN-OWNED BUSINESSES

### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. MILLENDER-McDONALD. Mr. Speaker, I am proud to announce that today my colleague, SUE KELLY, and I introduced an important resolution which recognizes important findings and makes recommendations on ways to assist women-opened businesses obtain more Federal procurement opportunities.

On September 25 of this year, we cochaired an unprecedented bipartisan forum addressing the vast growth of women-owned firms and the contrasting poor rate of procurement to these firms. This was a historic day for women business owners, for it was the first time that women business owners have ever convened on Capitol Hill to share their stories with members of the Congressional Caucus on Women's Issues.

On that historic day, the problems contributing to the dismal Federal procurement rate of 1.8 percent to women-owned firms became painfully clear. Despite the 5 percent Federal procurement rate goal which Congress established in 1994, the procurement rate remains low because of the lack of access to the Federal contracting process, the bundling of contracts frequently excluding small women-owned businesses, the ineffective outreach to women business owners, the poor and often incomplete feedback which is provided to businesses when their bid is not accepted, and the need for one certification for all women-owned businesses.

The sense of Congress resolution we have introduced today is the first step in our plan to address these problems and ensure that there is indeed a level and fair playing field for all business owners. I am fully committed to ensuring that this goal is met and that women-owned businesses are given equal opportunity to obtain a piece of the more than $200 billion annual procurement pie. Women-owned businesses are growing at nearly twice the rate of all other U.S. firms, employ 18.5 million people, and produce $2.38 trillion in revenues to the U.S. economy every year. We simply cannot allow this discrepancy to continue.

There is a wealth of knowledge and skills steeped within these women-owned businesses that we as an economic leader in the global marketplace cannot afford to ignore. Today, we take this first step to recognize the contributions the more than 8 million women-owned businesses are making to strengthen our economy. In the coming months, I will continue to recognize these achievements and take concrete actions to ensure equality of opportunity in obtaining Federal contracts.

## ELECTRONIC FINANCIAL SERVICES EFFICIENCY ACT OF 1997

### HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BAKER. Mr. Speaker, today I am introducing the Electronic Financial Services Efficiency Act of 1997. This bill is designed to provide a uniform nationwide framework to encourage the use and validity of electronic authentication.

New forms of electronic communication are being utilized as an alternative to paper-based documentation and correspondence. Computers are now routinely used to initiate and execute a substantial and growing number of personal, business, and financial transactions. As a result, the problem of authenticating the

identity and the signature of parties using computers has become a major concern. Unless a reliable alternative to written signatures is acknowledged, the promise of electronic commerce will not be fully realized.

State legislatures have recognized this need. At the present time 30 States have enacted or have introduced some form of digital authentication law. Unfortunately, these State statutes lack uniformity both in scope and application. Electronic communications and commerce take place on the Internet or elsewhere in cyberspace. Therefore, State boundaries have little relevance and conflicting State electronic authentication laws may ultimately inhibit the development of electronic commerce.

The bill I am introducing today is designed to address the issue of conflicting and confusing developments under current and proposed State law. The purpose of the Electronic Financial Services Efficiency Act of 1997 is threefold: First, to provide for the recognition of digital and other forms of authentication as an alternative to existing paper-based methods, second, to improve the efficiency and soundness of the Nation's capital markets and payment system, and third, to harmonize the practices, customs and uses applicable to electronic authentication on a uniform, nationwide basis.

The first goal is accomplished by explicitly recognizing that all forms of electronic commerce that comport with specific, basic statutory standards shall have parity with written signatures. As a result, they will be considered valid for all communications with Federal agencies, U.S. Courts and other instrumentalities of the U.S. Government.

In order to minimize confusion and encourage uniform national treatment, unless the laws of a State otherwise expressly provide, all forms of electronic authentication that comport with the Federal statutory standards shall have the same standing as written signatures for all legal purposes.

The second goal is met by the establishment of the National Association of Certification Authorities [NACA]. Any person or group that wishes to provide electronic authentication services in the United States must be a registered NACA member. The NACA may admit any person or group to membership, provided they are licensed and provide electronic authentication services consistent with the standards set forth in this act.

The third goal is met by the creation of an Electronic Authentication Standards Review Committee within the NACA. Overseen by the Secretary of the Treasury, the Standards Review Committee shall establish, develop, and refine criteria to be applied to new electronic authentication methods, consistent with the specific standards set forth in the Electronic Financial Services Efficiency Act of 1997.

Recognizing that digital authentication will be used in retail transactions, this legislation requires that consumers be notified of the fact that an electronic communication or transaction has been digitally authenticated. Furthermore, the act states that any rights currently afforded to consumers in underlying transactions are not in any manner impaired or weakened. Additionally, the Standards Review Committee has the authority to address consumer protection by exercising its rulemaking and enforcement powers.

Mr. Speaker, I believe that this legislation will authorize and validate the use of electronic authentication. It will also encourage innovation and stimulate competition in the design and use of reliable state-of-the-art digital technology.

## RECOGNIZING THE SERVICE OF ALICE PETROSSIAN

### HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a woman who had dedicated her career to serving students throughout California and our Nation—Alice Petrossian. Now more than ever, we must encourage our teachers to be their best, push our students to work hard and set goals, and invest in strengthening our education system. Recently, this dear friend and educator was awarded the Professional of the Year award by the Armenian Professional Society for her ongoing commitment as an educator.

Alice began her career at California State University Los Angeles, earning both her bachelor's and master's degree before heading to California State University Hayward to pursue her teaching credential. He work toward excellence in education was recognized early on as she received the Most Outstanding Graduate award at both schools.

Alice then moved back to southern California where she became actively involved with the Glendale Unified School District serving recently as the director of special projects and intercultural programs. She has received much recognition for her service, and her talents have been called upon by each of the last three Governors of California.

Alice has served on the California Community College Board, the California Post Secondary Education Board, and has worked with the Commission for the Establishment of Academic Content and Standards to ensure that quality curricula are united with well-prepared teachers offering our children the tools necessary for the future.

Alice's most important work goes beyond any committee or board on which she might serve. Since her arrival in Glendale, she has reached out to students of all backgrounds. Alice has put faith in at-risk students, and those that might slip through the cracks. Her efforts to provide quality education for all students have distinguished her as a friend of education.

Alice has gone above and beyond the call of duty by establishing scholarship funds, promoting mentoring programs, and working to benefit all students. The greatest honor she can receive, and the greatest thanks we can offer is by witnessing the change in the lives of every student she has touched. In recogniaiton of her commitment to edcuation, and to the students of California and our Nation, I ask my colleagues to join me today in saluting the service of Alice Petrossian.

## TRIBUTE TO IRSHAD-UI-HAQUE

### HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has exemplified the spirit and determination of what makes American great—Irshad-UI-Haque. Irshad has built a career as a devoted family man, successful entrepreneur, and compassionate community leader. He has cleared many hurdles in life, and always come out with a compassion for his fellow man and a personal commitment to make a difference.

In 1960, Irshad come to the United States from Pakistan with very little money and speaking very little English. However, he was not deterred. He labored exhaustingly long hours in a sweatshop for a paltry $1.00 per hour. With an eye on his future, he dedicated himself to learning English, pursuing an academic career, and working to make the most of his future.

Irshad attended classes when not working, and moved on from Pasadena City College to the University of Southern California, where he earned a degree in business. Following graduation, Irshad spent over 10 years working for the Xerox Corp. where his talent was quickly recognized.

In 1972, Irshad and his wife took a gamble. They opened Bantam Associates and eventually turned a family-owned property management company into the parent of one of the largest storage and archive management firms in the Nation. He will quickly shy away from claiming too much success for his achievements, the biggest credit he will pay to his wife and his daughters.

Irshad leads by example, and has been deeply involved in many philanthropic organizations. He has dedicated his time and resources to the Los Angeles Police Department, the Boy Scouts of America, various chambers of commerce and service organizations, and to health care agencies serving the elderly and poor. Because of his many acts of service, Irshad was awarded the Glendale Man of Achievement Award last week by the Glendale News Press.

Irshad Haque has taken his thread of knowledge, determination, and compassion and woven it into a shinning example of what makes our country whole. In recognition of his selection for the Man of Achievement honor, and in gratitude for his service to his community, I ask my colleagues here today to join me in thanking and congratulating a great American, Irshad-UI-Haque.